

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.16416 OF 2009

ORDER:

The writ petition is filed by the petitioner challenging the Memo No.Rc.No.A2/18150/2009 dated 05.08.2009 issued by the 1st respondent.

As per the averments made in the affidavit filed in support of the writ petition, the petitioner was initially appointed as a Junior Assistant in the year 1984 and subsequently he was promoted to the post of Senior Assistant and later as Superintendent in the 2nd respondent temple. Thereafter on 08.07.2009, he was appointed as an Executive Officer in the temple of the 2nd respondent.

By the impugned proceedings, the 1st respondent-Commissioner, taking into consideration the allegations made by one K. Subba Rao, Senior Assistant that the petitioner got promotion in another institution other than his parent institution illegally, directed the Executive Officer of the 2nd respondent to cancel the promotion of the petitioner as Superintendent. Hence, the petitioner challenges the same on the ground that he is a Government Servant in terms of Section 29 of the Act having been appointed as an Executive Officer of the temple with effect from 08.07.2009 and the 1st respondent does not have any jurisdiction to take any action against him. In that view of the matter, the 1st respondent-Commissioner directing the Executive Officer to take action is totally unsustainable. Even on merits, the petitioner contends that his promotion as a Superintendent and thereafter his promotion as an Executive Officer are in order and the allegations made against him are totally unsustainable.

A counter-affidavit filed by both the respondents except

reiterating the facts of illegal ground which has been raised by the petitioner has not been controverted.

A perusal of the provisions of Section 29 of the Act reveal that the Executive Officer of the temple does not have the jurisdiction and in terms of Section 29 of the Act read with the Rules made thereunder, the Commissioner is the competent authority to take any action with respect to the petitioner. In that view of the matter, the writ petition deserves to be allowed.

Accordingly, the writ petition is allowed setting aside the impugned Memo. However, it is left open to the 1st respondent-Commissioner, who is the competent authority, to initiate proceedings, if he so desires, directing the Executive Officer of the 2nd respondent to initiate appropriate action in accordance with the law. There shall be no order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand dismissed.

CHALLA KODANDA RAM,J

Date:31.12.2014.

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