

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PLETITION No.17761 of 2015

Date: 18.06.2015

Between :

Matke Nagaiah Dharmashala (Nageswara Dharma Nilayam)
at Sajjanlal Street, Monda Market, Secunderabad, rep.by its
Founder Trustee, Matke Lingappa, S/o. M.Nagaiah,
Aged 81 years, R/o.H.No.7-3-55, Secunderabad.

..... Petitioner

And

State of Telangana, rep.by its Principal Secretary,
Endowments, Secretariat, Hyderabad and others.

..... Respondents

This Court made the following order:

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ORDER:

Petitioner claims to be the founder trustee of the institution namely “Matke Nagaiah Dharmashala” (Nageswara Dharma Nilayam) near Sajjanlal Street, Monda Market, Secunderabad. According to the petitioner, his father created trust by way of registered deed and objects of the trust deed indicated primarily for the purpose of religious and social activities of Veera Shaiva Lingayath Culture. As a member of the founder family, petitioner continues to be the trustee and Chairman of the trust and there are two other trust members. The writ petition is instituted challenging the notification issued on 28.05.2015 for constitution of non-hereditary trust for various temples under Section 15(1) of Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, ‘Act,1987) and consequential notification dated 29.05.2015 calling for applications from the willing persons for enlistment as members of the Trust.

2. Learned counsel for the petitioner contends that as per the deed of creation of trust, the specific object is the social activities and empowerment of Veera Shaiva Lingayath culture, whereas a plain reading of the impugned notifications disclose that any person can apply for trusteeship. Learned counsel further contends that in accordance with the provision contained in Section 17 of the Act 1987, while making such appointments due regard to the religious denomination or any such section thereof to which the institution/endowment belongs and the wishes of the founder.

3. As seen from the two impugned notifications, the same were issued in purported exercise of power vested in Section 15 of the Act, 1987. As a consequence to the notification issued, the competent authority is entitled to select persons suitable to appoint as trustees. The eligibility criteria as indicated has to be followed strictly in making such selections. In accordance with the provision contained in Section 17 of the Act, 1987, it is mandatory for the competent authority to take due note of the purpose and objects of constitution of institution/endowment and due regard has to be given to the wishes of the founder. That stage has not yet reached. Therefore, at this stage, it is premature to presume that the competent authority is not going to give weightage to the wishes of the founder and that he would not select persons in compliance with Section 17 of the Act.

4. However, since the provision enables the consultation with the founders, it is open to the petitioner to submit a representation to the Deputy Commissioner concerned in terms of the trust deed and its objects. As and when such representation is received by the Deputy Commissioner, he shall consider such representation before appointing members of the trust Board.

5. With the above observations, the writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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