

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.29995 OF 2014

DATED:07-12-2015

Between:

B.V.S.K. Satya Prasad ... Petitioner

And

Government of Andhra Pradesh
Rep. by its Secretary
Endowments Department
Secretariat
Hyderabad
and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. A. Abishek Reddy

COUNSEL FOR RESPONDENT NOs.1 to 6: G.P. for Endowments (AP)

COUNSEL FOR RESPONDENT NO.7 : Smt. K. Lalitha

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside proceedings in Rc.No.B2/7560/2014, dt.24.09.2014, of respondent No.3, whereby he has purportedly suspended the petitioner, who is the member of the founder family of Sri Kasi Visweswara Swami Vari Temple, Bhimavaram Village, Vatsavai Mandal, Krishna District.

A perusal of the record shows that the petitioner, who was appointed as founder family member, was placed under suspension on 30.12.2011 under Section 28(3) of the Andhra Pradesh Charitable and Hindu Religions Institutions and Endowments Act, 1987 (for short, 'the Act'). The petitioner has assailed the said order in W.P. No.908 of 2012. This Court by order dt.12.1.2012 set aside the said order holding that the order of suspension was passed without even framing charges. It appears, subsequent to the disposal of the above mentioned writ petition, eighteen charges were framed against the petitioner by respondent No.4, Assistant Commissioner of Endowments, Vijayawada, and after holding an enquiry a report was submitted by him. Based on the said report, respondent No.3 has again suspended the petitioner.

The impugned order is liable to be set aside for more reasons than one. If respondent No.3 is the disciplinary authority, respondent No.4 is not competent to frame charges. He is also not competent to hold enquiry unless he is permitted to do so by respondent No.3. The impugned order does not show that any such permission was granted. Further, respondent No.3 has not disclosed the nature of the charges and the explanation submitted by the petitioner. More fatal than any other ground appears to be that respondent No.3 has not indicated in his order as to whether the suspension of the petitioner is made as a temporary measure or as a substantive punishment. Since an enquiry is already stated to have been held, there is no possibility of the suspension being resorted to as a temporary measure. If the suspension is perceived as substantive punishment, by its very nature suspension is temporary, respondent No.3

has not indicated any period for which the petitioner was suspended. Even if this Court proceeds on the premise that the petitioner's suspension is substantive in nature, as more than one year had elapsed from the date of passing of such order, the petitioner is entitled to restoration of his office.

For the above mentioned reasons, the impugned order is set aside and the writ petition is allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.37481 of 2014 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

07-12-2015

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