

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

-
WRIT APPEAL No. 1694 OF 2014

DATE: 21.01.2015

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Between:

Machani Nagaraju

... Appellant

And

The Commissioner of Endowments,
Boggulakunta, Hyderabad & others.

... Respondents

This Court made the following:

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THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT APPEAL No. 1694 of 2014
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JUDGMENT: (Per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

Respecting to our observation made on 20.01.2015, record relating to the impugned appointment has been placed before us. We have taken note of the same and we shall deal with it a little later.

This appeal has been preferred against the judgment and order of the learned Single Judge dated 02.06.2014 whereunder and whereby His Lordship was pleased to dismiss the writ petition.

The appellant before us has filed the writ petition for issuance of a writ of Mandamus declaring the action of the 1st respondent i.e., the Commissioner of Endowments, A.P., Hyderabad, in issuing the proceedings dated 10.01.2014 appointing the 2nd respondent as Executive Officer to Sri Neela Kanteswara Swamy Temple, Yemmiganur Village and Mandal, Kurnool District, as illegal and arbitrary. The learned Single Judge, after having noted all the facts and considering thereof, has held that there is no illegality in the appointment of Executive Officer, which is impugned in the writ petition.

We fail to understand how the writ petitioner/appellant has locus in the matter to challenge the impugned appointment asking for a writ of Mandamus. His Lordship found that the appointment is perfectly lawful. If the appointment is found to be lawful, the writ petitioner, who is a

hereditary trustee, cannot question the same, as whosoever is appointed as an Executive Officer his status as a trustee is not affected. It is not stated that how his right to participate in the management of the temple is affected by this appointment. In any way and in our view this appointment does not affect his right at all.

Learned counsel for the appellant, however, in order to get the order of admission of the appeal contends that the impugned order has been passed by the Deputy Commissioner.

Taking note of his submission we have seen the order and it appears to us reading the impugned order that it is a communication of an order, not the document itself is an order. The Deputy Commissioner, Mr. M. Ramakrishna Rao, has communicated the order by the document impugned mentioning specifically "by order of the Additional Commissioner". In this context, we called for the records to see whether factually the Additional Commissioner has passed any order or not. We have checked up the record and we notice that the Assistant Commissioner has submitted the reports and taking note of such reports and applying his mind the Additional Commissioner himself has passed the order in the manner as follows.

"E.O., G.Ts., Yammiganur, may be kept under additional charge to Sri Neelakanteswara Swamy Temple, Yammiganur, as recommended by Assistant Commissioner, Kurnool."

When it is clear that the Additional Commissioner has applied his mind and thereafter he accepted the recommendation of the Assistant Commissioner; no one can dispute that the Additional Commissioner has no power to appoint on this given situation. Under these circumstances, we are unable to accept the contention that the impugned order was not passed by the Additional Commissioner but it was passed by the Deputy Commissioner.

For the foregoing reasons, we dismiss the appeal. Pending miscellaneous petitions, if any, shall also stand dismissed. No costs.

K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

Date: 21.01.2015

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