

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.No.34959 of 2015

Date : 25-11-2015

Between:

D.MD. Ashfaq .. Petitioner

And

The Principal Secretary,
Minority Welfare Department,
State of Andhra Pradesh,
Secretariat, Hyderabad
and others .. Respondents

Counsel for petitioner : Mr. P. Veera Reddy for Mr. M.L. Ali

Counsel for respondent No.1 : Government Pleader for

Minorities Welfare

Counsel for respondent Nos.2 & 3 : Mr. Farhan Azam Khan, Standing

Counsel for A.P. State Wakf Board

The Court made the following :

ORDER:

This Writ Petition is filed for a mandamus to declare the action of the respondents in interfering with the personal rights of the petitioner as the Sajjadasheens in respect of the Dargah Syed Shah Ali Akber Urf Mastan Vali, Guntakal, Anantapur District, as illegal and arbitrary.

The petitioner claims to be the Sajjadasheen of the above mentioned Institution which is a notified Wakf under the Wakf Act 1995 (for short "the Act"). He was also appointed as the Muthawalli of the said Wakf. However, he was placed under suspension and the disciplinary proceedings initiated against him are pending. The petitioner averred that the duties of the Muthawalli as a Sajjadasheen are different and distinct from that of Muthawalli and that therefore respondent Nos.2 and 3 cannot prevent him from discharging his duties as the Sajjadasheen in spite of the fact that he is appointed as the Muthawalli.

An elaborate counter-affidavit has been filed by the Chief Executive Officer of respondent No.2-Wakf Board wherein the detailed history of the office of a Sajjadasheen has been traced. The counter-affidavit seriously disputed the status of the petitioner as the Sajjadasheen.

The petitioner has not filed any document to confirm his status as the Sajjadasheen. Since the claim of the petitioner about his

status as the Sajjadanasheen is seriously disputed by respondent No.2-Wakf Board, this Court in exercise of this jurisdiction under Article 226 of the Constitution of India cannot decide such a dispute as the adjudication thereof requires oral and documentary evidence to be adduced by both the parties. Under Section 83(1) of the Act, the Wakf Tribunal is vested with the jurisdiction to determine any dispute, question or other matter relating to a Wakf. As the dispute raised by the petitioner pertains to the office attached to a Wakf, the same squarely falls under the jurisdiction of the Wakf Tribunal. In this view of the matter, without expressing any opinion on the merits of the case, the Writ Petition is dismissed with liberty to the petitioner to approach the Wakf Tribunal for adjudication of the dispute.

As a sequel to the dismissal of the Writ Petition, WPMP No.44922 of 2015 filed for interim relief is dismissed as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 25-11-2015

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