

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

WRIT PETITION NO.29434 OF 2015

DATED:18-11-2015

Between:

Gaddipati Venkateswara Rao ... Petitioner

And

The State of Andhra Pradesh

Endowments Department

Secretariat Buildings

Secretariat

Hyderabad

Rep. by it Principal Secretary

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. V.V.N. Narayana Rao

COUNSEL FOR RESPONDENT NOS.1 to 3: G.P. for Endowments (AP)

COUNSEL FOR RESPONDENT NO.4 : Smt. K. Lalitha,

Standing Counsel

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.A8/4104/2014, dt.9.7.2014, of respondent No.2, whereby he has appointed Executive Officer of Tenali Group-II Temples as single trustee to respondent No.4 temple.

2. The petitioner has pleaded that an extent of Ac.0.06 cents of residential site along with a residential house situated in T.S. No.270, Ward No.10, Block No.3, was

endowed by Smt. K. Lakshmikanthamma in favour of respondent No.4 temple under registered settlement deed dt.1.9.1943, that the said deed was confirmed in favour of respondent No.4 by one Kuchumanch Venkatanaka Durga Lingamma, W/o.Venkateswarlu and Kuchumanch Venkatanaka Durga Ranganakamma, W/o. Chenchaiyah, through registered settlement deed dt.25.3.1982, that under the latter deed the petitioner was appointed as permanent trustee and entrusted the maintenance of the above property to him and that since then he has been discharging the duties and performing the functions of the trustee. The petitioner further pleaded that he has received legal notice dt.13.8.2014 from one Sri L. Venkat Rao calling upon him to handover possession of the property of respondent No.4 treating him as encroacher of the subject property. That the petitioner got a reply notice dt.8.9.2014 issued denying the allegations and the said Venkat Rao has filed O.A. No.786 of 2014 before the Andhra Pradesh Endowments Tribunal, under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short, 'the Act'), for eviction of the petitioner. That the said O.A. was allowed *ex parte* and that assailing the same the petitioner filed C.M.A. No.406 of 2015 before this Court, which is pending. In the present writ petition, the petitioner is aggrieved by the impugned proceedings appointing the Executive Officer of another group of temples as single trustee of respondent No.4.

3. Mr. V.V.N. Narayana Rao, learned counsel for the petitioner, assailed the validity of the impugned proceedings mainly on three grounds, viz;

(i) That under the first proviso to Section 15(2) of the Act, the appointing authority must give sufficient reasons to be recorded in writing for appointing a single trustee instead of Board of Trustees and that no such reasons have been assigned in the impugned proceedings;

(ii) That under Section 18(d) of the Act, a person is qualified for trusteeship, if he has sufficient time and interest to attend to the affairs of the institution; and

(iii) That under Section 19(1)(g) of the Act, a person is disqualified for trusteeship, if he is an office holder or servant attached to, or a person in receipt of any emolument or perquisite from such institution or endowment.

In support of the third submission referred to above, the learned counsel has placed reliance on the judgment of this Court in *Balusu Kesava Rao v. State of Andhra*

Pradesh.

4. Smt. K. Lalitha, learned Standing Counsel appearing for respondent No.4, opposed the above submissions and contended that the petitioner has no locus to maintain this writ petition as he was never recognized as trustee. She has further stated that in the interest of proper administration of respondent No.4, the Executive Officer of a Group of Temples is appointed as a single trustee of respondent No.4, that there is no statutory prohibition on appointment of an Executive Officer of a temple as trustee of another temple.

5. I have carefully considered the submissions of the learned counsel for the parties and perused the record.

6. Chapter III of the Act deals with Administration and Management of Charitable and Hindu Religious Institutions and Endowments. Section 15 of the Act envisages appointment of Board of Trustees. Under the first proviso to sub-section (2) of Section 15 of the Act, the Deputy Commissioner may either in the interest of the institution or endowment or any other sufficient cause or for reasons to be recorded in writing appoint a single trustee instead of a Board of Trustees. Section 17 of the Act prescribes procedure for making appointments of trustees and their control. Section 18 of the Act enumerates qualifications of trusteeship and Section 19 prescribes disqualifications for trusteeship. A perusal of the impugned proceedings shows that respondent No.2 has assigned reason for appointing the single trustee, namely, in the interest of public and better administration of the institution. In my opinion, if the appointing authority is satisfied that the interests of the institution or endowment warrant appointment of a single trustee, such a ground is sufficient to sustain such appointment. I am unable to agree with the submission of the learned counsel for the petitioner that special and detailed reasons must be given for appointing a single trustee, other than recording of the satisfaction by the appointment authority that interests of public and better administration of the institution warrant such appointment. Therefore, the first submission of the learned counsel for the petitioner is rejected.

7. The second and third submissions of the learned counsel for the petitioner need to be considered together. No doubt under Section 18(d) of the Act, a person shall be qualified for being appointed as a trustee, if he has sufficient time and interest to attend to the affairs of the institution. In advancing his submission, the learned

counsel has assumed that being the Executive Officer of a Group of Temples, he may not find time to act as single trustee of the subject temple. Such an assumption, in my opinion, is wholly without any basis. The petitioner has not pleaded as to the nature of work the Executive Officer of the Group of Temples was to discharge in order to show that he has no time left to attend to the affairs of the subject temple.

8. Coming to the submission based on Section 19(1)(g) of the Act, it would be appropriate to reproduce the relevant provision.

“19. Disqualification for trusteeship:- (1) A person shall be disqualified for being appointed as, or for being, trustee of any charitable or religious institution or endowment –

(a) to (f)

*(g) if he is an office holder or servant attached to, or a person in receipt of any emolument or perquisite from **such institution** or endowment;*

(emphasis added)

The learned counsel strenuously submitted that a person who is an office holder or servant attached to any institution or endowment is disqualified to be appointed as trustee of any other institution or endowment. This submission, in my opinion, is wholly without any merit. The words “such institution or endowment” in clause (g) are referable to the words “trustee of any charitable or religious institution or endowment” mentioned in sub-section (1). A proper interpretation of this provision means that a person who is an office holder or servant of an institution cannot be appointed as trustee for that institution only. This shall necessarily mean that if a person is an office holder or servant attached to one institution, he can be appointed as trustee of another institution subject to his possessing other qualifications and satisfying the other requirements prescribed under the Act. If there is a blanket prohibition on appointing an office holder or a servant of any institution to any other institution, the word “such” in clause (g) would be rendered otiose. The object behind Section 19(1)(g) of the Act appears to be that if an office holder or a servant of an institution is appointed as trustee of that institution, he may have personal interest and he may not be able to discharge his duties as trustee in a fair and proper manner.

9. I have considered the judgment in *Balusu Kesava Rao* (supra), on which reliance

is placed by the learned counsel for the petitioner. No doubt, in that judgment the learned single Judge has expressed an opinion that the Act does not envisage appointment of officers of the Endowment Department as trustees and that such appointment is contrary to the statutory mandate. But I do not find a detailed discussion with reference to Section 19(1)(g) of the Act in that judgment. The learned Standing Counsel for respondent No.4 submitted that a writ appeal was filed against the said judgment by the Government.

10. For the above mentioned reasons, I do not find any merit in this writ petition and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.38141 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

18-11-2015

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