

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.25576 of 2006

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the notice bearing No.C/65/06, dated 04-10-2006 proposing to hold enquiry on the complaint of the 4th respondent.

Heard, Sri N. Vasudeva Reddy, learned counsel for the petitioner, learned Government Pleaders for Revenue and Social Welfare for respondents 1 to 3 and Sri K. Mahipathi Rao, learned counsel for respondent No.4, apart from perusing the material available before this Court.

The only question which arises for consideration of this Court in the present writ petition is whether the official respondents have power and jurisdiction to hold the proposed enquiry.

It is the categorical submission of learned counsel for the petitioner that respondents 1 to 3 herein have neither power nor any authority to hold any enquiry into the civil disputes relating to Menonite Brethren Property Association of India. According to the learned counsel, the impugned action is totally one without jurisdiction and also impermissible in view of O.P.No.2 of 2004 already filed by the 4th respondent before the II Addl. District Judge, Mahaboobnagar.

On the other hand, when the matter is taken up today learned Government Pleader for Social Welfare has placed on

record an order passed by the Joint Collector vide proceedings No.A/65/2006, dated 12-12-2006. According to the said order, the 4th respondent herein submitted an application to the District Collector, Mahaboobnagar making allegations against the petitioner and the District Collector directed the Joint Collector to conduct enquiry into the matter personally. It is also evident from the said letter that the authorities came to know of filing of O.P.No.2 of 2004 by the 4th respondent on the file of the II Addl. District Judge, Mahaboobnagar and on receiving the said information they stopped the proceedings further with the matter, pending disposal of O.P.No.2 of 2004.

As evident from the submissions of learned counsel for the petitioner, the petitioner in this case is questioning the very jurisdiction of respondent Nos.1 to 3 in issuing the impugned notices.

No provision of law is brought to the notice of this Court which enables the respondents 1 to 3 to issue impugned notices proposing to hold enquiry. It is also significant to note that the 4th respondent herein filed O.P.No.2 of 2004 before the Court of II Addl. District Judge, Mahaboobnagar.

According to the learned counsel for the petitioner since the 4th respondent already availed the said remedy it would not be open for the 4th respondent to make a complaint before the 3rd respondent. During the course of hearing, it is also brought to the notice of this Court that the II Addl. District Judge, Mahaboobnagar dismissed the said O.P.No.2 of 2004 for non-prosecution. Since the respondents herein failed to trace out their power to any

provision of law, the impugned action cannot be sustained.

For the aforesaid reasons, the writ petition is allowed, setting aside the impugned notice bearing No.C/65/06, dated 04-10-2006 issued by the 3rd respondent and consequently declaring the proposed proceedings as impermissible.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

July 15, 2016

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