

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.7991 OF 2016

ORDER:

Notice in Form No.I dated 19.02.2016 issued by the Deputy Commissioner calling for applications for appointment of the trustee in prescribed form is challenged before this Court.

It is contention of the learned counsel for the petitioner that the petitioner is an Archaka and trustee of Sri Bheemeswara Swamy Temple, Bhimadole Village and Mandal, West Godavari District but the notification issued by the Deputy Commissioner is contrary to the proceedings dated 26.04.2011 which were issued in terms of the Circular of the Commissioner dated 16.12.2008.

Heard the learned counsel for the petitioner, learned Government Pleader for respondents 1 to 4 and Ms. K.Lalitha, learned Standing Counsel for the fifth respondent-Temple.

Learned Standing Counsel placed on record the proceedings dated 16.12.2008 of the Commissioner which is the basis for proceedings dated 26.04.2011 wherein the petitioner, Kallakuri Sambasiva Sarma, working in the fifth respondent-Temple, was authorized to look after the affairs of the Temple as per the provisions under Section 15(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 ("the Act" for brevity). The appointment of the petitioner to hold the charge of the Temple was until further orders.

In the year 2016, the Deputy Commissioner had taken a decision to constitute trust board as is mandated under Section 15 of the Act.

It is the contention of the learned counsel for the petitioner that the Deputy Commissioner, under the statute, is not entitled to issue the said notification. The only ground on which the petitioner challenges the impugned notification is that the same is contrary to the proceedings dated 26.04.2011, which in fact, were based on the

instructions of the Commissioner dated 16.12.2008 and in that view of the matter, the contention of the learned counsel for the petitioner is that the Deputy Commissioner could not have disobeyed the orders of the Commissioner.

A perusal of the proceedings dated 16.12.2008 and 26.04.2011 do not indicate the Deputy Commissioner in any way violating the instructions of the Commissioner, as in the proceedings dated 16.12.2008 itself it has been clarified that the appointment of serving Archaka, who administer or manage the affairs of the institution, is on *ad hoc* basis till a regular trust board or trustee is appointed. Even the proceedings dated 26.04.2011 also make it clear that the appointment of the petitioner is only until further orders. This Court sees no conflict in all the proceedings and the present action of the Deputy Commissioner, more particularly whatever may be the instructions of the Commissioner, the statute has conferred power on the Deputy Commissioner in terms of Section 15(2) of the Act and the said power cannot be restricted or interdicted by the Commissioner notwithstanding the fact that the Commissioner is a superior authority. Any instructions that may be issued by the Commissioner should be in aid of the prescribed authority to exercise the power rather than overreach the power of the prescribed authority. At any rate in the facts of the present case, there being no conflict, the action of the Deputy Commissioner in issuing notification cannot be found fault with. Further, considering the submission of the learned counsel for the petitioner that the petitioner has never functioned as manager of the Temple, for one reason or the other, there is no reason to interdict the constitution of the trust board. Hence, I see no merit in the Writ Petition.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(CHALLA KODANDA RAM, J)

21st March 2016
RRB