

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION NO.19899 OF 2014**

**ORDER:**

1<sup>st</sup> petitioner is the wife, petitioners 2 and 3 and 5<sup>th</sup> respondent are the sons of late Balabadra Vallabhacharyulu. Father of the said Balabadra Vallabhacharyulu was declared as hereditary archaka of the 4<sup>th</sup> respondent temple in an order passed in O.A.No.83 of 1952, dated 31-12-1956. The said Balabadra Vallabhacharyulu died on 16-02-2004. On the application of the 1<sup>st</sup> petitioner, 5<sup>th</sup> respondent was appointed on compassionate grounds, vide order, dated 07-05-2004 as archaka of the 4<sup>th</sup> respondent temple. Since the 5<sup>th</sup> respondent neglected to look after the petitioners, the 1<sup>st</sup> petitioner made another application on 23-07-2008 seeking modification of the earlier order and allowing petitioners 2 and 3 also to do archakatvam service. Thereafter, the then Deputy Commissioner, Endowments Department, Visakhapatnam, passed an order, dated 17-10-2008 according permission for appointment of petitioners 2 and 3 in addition to 5<sup>th</sup> respondent to do archakatvam in 4<sup>th</sup> respondent temple on rotation basis. Accordingly, proceedings were issued on 14-03-2009 appointing three brothers as archakas of the 4<sup>th</sup> respondent temple on rotation basis for rendering archakatvam service, each for one month. The said order was challenged by the 5<sup>th</sup> respondent in O.A.No.38 of 2009 before the Deputy Commissioner, Endowments, Visakhapatnam, who suspended the said order of rotation in I.A.No.28 of 2009, dated 21-03-2009. The order of suspension was challenged by the petitioner herein before the Additional Commissioner, who passed an order, dated 22-04-2009, by modifying the order passed by the Deputy Commissioner, Endowments Department, Visakhapatnam and instructed him to continue the rotation system. When the said order was not implemented, the petitioners filed W.P.No.6533 of 2009 challenging the order passed by the Deputy Commissioner, Endowments Department, Visakhapatnam, in I.A.No.28 of 2009 in O.A.No.38 of 2009, dated 21-03-2009.

2. This Court, vide order, dated 23-09-2009 directed all the three brothers to work on rotation basis and accordingly, an order was passed by the 4<sup>th</sup> respondent on 26-09-2009. Challenging the order of the Additional Commissioner, dated 22-04-2009, the 5<sup>th</sup> respondent filed

W.P.No.9333 of 2009 and ultimately, the said writ petition along with W.P.No.6533 of 2009 filed by the petitioner were disposed of by common order, dated 10-02-2014. This Court in the said order, set aside the order passed by the Additional Commissioner, dated 22-04-2009 and also the order passed by the Deputy Commissioner, Endowments Department, Visakhapatnam, in I.A.No.28 of 2009 in O.A.No.38 of 2009, dated 21-03-2009. However, liberty was given to the 5<sup>th</sup> respondent herein, who was a petitioner in one of the writ petitions to challenge the said order before the appropriate authority. Accordingly, the 5<sup>th</sup> respondent filed Revision Petition before the 3<sup>rd</sup> respondent herein. Along with the said revision petition, he also filed two interlocutory applications viz., 1) seeking condonation of delay of four years in filing the Revision Petition and 2) suspension of the order of the 4<sup>th</sup> respondent herein, dated 14-03-2009. In the meanwhile, though this Court held that the proceedings before the Deputy Commissioner, Endowments Department, Visakhapatnam in O.A.No.38 of 2009 are not maintainable, the said O.A. was transferred to Endowments Tribunal, Visakhapatnam, which is now transferred to Peddakakani and the said O.A. is still pending. When the 3<sup>rd</sup> respondent passed an order in I.A.No.1 of 2014 in R.P.No.1 of 2014, which was filed for condonation of delay, directing the 4<sup>th</sup> respondent temple to pay salary to the 5<sup>th</sup> respondent herein as was being drawn by him prior to the issuance of impugned order, dated 14-03-2014, vide order, dated 02-06-2014, the same is challenged in the present writ petition.

3. It is clear from the above facts that this Court in the earlier round of litigation initiated by the petitioners 2 and 3 and the 5<sup>th</sup> respondent in W.P.Nos.9333 of 2009 and 6533 of 2009, dated 10-02-2014, held that the order passed by the 2<sup>nd</sup> respondent, dated 22-04-2009 without putting the affected party on notice is bad in law and the Deputy Commissioner, Endowments Department, Visakhapatnam, has no jurisdiction to entertain O.A.No.38 of 2009. The said O.A. was transferred to Endowments Department, Visakhapatnam and now it is transferred to Peddakakani.

4. Learned counsel appearing for the 5<sup>th</sup> respondent submits that in view of finding recorded by this Court in the earlier round of litigation, he does not pursue O.A.No.38 of 2009 before the Endowments Tribunal. This Court also observed while disposing of the above writ

petition that by virtue of disposal of the writ petition, the order passed by the Executive Officer, dated 14-03-2009 gets revived. In view of the same, the order passed by the Executive Officer, dated 14-03-2009 shall be continued till disposal of the two interlocutory applications pending before the 3<sup>rd</sup> respondent. The impugned order, dated 02-06-2014 was passed by the 3<sup>rd</sup> respondent without hearing the petitioner.

5. In the circumstances, the impugned order, dated 02-06-2014 in I.A.No.1 of 2014 in R.P.No.1 of 2014 passed by the 3<sup>rd</sup> respondent is set aside and the matter is remanded to the 3<sup>rd</sup> respondent for consideration of the applications of the 5<sup>th</sup> respondent after hearing the petitioners 2 and 3 herein and the 4<sup>th</sup> respondent temple and pass appropriate orders in accordance with law within a period of three months from the date of receipt of a copy of this order. Till disposal of the applications, the interim arrangement made by the Executive Officer of the 4<sup>th</sup> respondent temple by virtue of the order, dated 14-03-2009 shall continue.

6. Accordingly, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

**DATED: 01-09-2016**  
Hsd

**A.RAMALINGESWARA RAO, J**

