

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 12472 OF 2016

ORDER:

The vires of G.O.Rt.No. 112, Revenue (ENDTS.II) Department, dated 01.02.2016, through which the 1st respondent, in exercise of powers conferred on it under Sections 19(1)(e) and 28 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act'), suspended the petitioner from the Trust Board of Sri Kalahastheeswara Swamy Vari Devasthanam, Srikalahasthi, Chittoor District, is under challenge in this Writ Petition.

The above-said order dated 01.02.2016 came to be passed as the petitioner was remanded to judicial custody for his alleged involvement in the murder of Mayor, Chittoor, attracting disqualification under Section 19(1)(e) of the Act.

Learned counsel for the petitioner has raised several grounds, important of which being, the very applicability of the provisions under Sections 19 and 28 of the Act to the present fact situation. According to him, neither any charges were framed nor an enquiry was conducted by the temple authorities, before taking the decision, which itself is in violation of the mandate contained in Section 28(1) & (2) of the Act.

On 18.04.2016, this Court, while issuing notice to the respondents, suspended the impugned order for a period of eight weeks. Today, the learned Government Pleader for Endowments (Andhra Pradesh), on instructions, is fair enough to submit that in the present case, the mandate under sub-sections (1) and (2) of Section 28, has not been followed.

In the circumstances, it would be appropriate to extract the provisions in Section 28 (1) & (2) of the Act, as under:

28. Suspension, removal or dismissal of trustee: - (1) The authority competent to appoint a trustee may suspend, remove or dismiss a trustee, if he –

a) fails to discharge the duties and perform the functions of a trustee in accordance with the provisions of this Act or the rules made thereunder.

b) disobeys any lawful orders issued under the provisions of this Act or the rules made thereunder, by the Government or the Commissioner or the Deputy

Commissioner or the Assistant Commissioner;

c) refuses, fails or delays to handover the property and records in his possession relating to the institution or endowment to his successor or any other person authorized in this behalf;

d) commits any malfeasance or misfeasance or is guilty of breach of trust or misappropriation in respect of the properties of the institution or endowment;

e) becomes subject to any of the disqualifications specified in Section 19; or

f) in the case of a religious institution or endowment, ceases to profess Hindu religion.

(2) Where it is proposed to take action under sub-section (1), the authority competent to appoint the trustee shall frame a charge against the trustee concerned and give him an opportunity of meeting such charge, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state every charge framed against trustee, his explanation and the finding on such charge, together with the reasons therefor.”

The above-quoted provision clearly spelt out that before taking any action as required under sub-section (1), the authority concerned has to frame a charge against the trustee concerned, give him an opportunity of hearing and consider the evidence, explanation submitted by the trustee. *Prima facie*, in the present case, the said procedure has not been followed. On that ground alone, the impugned G.O. is liable to be set aside.

Hence, without expressing any opinion on the merits of the matter, G.O.Rt.No. 112, dated 01.02.2016 is set aside, leaving it open to both the parties to work out the remedies in accordance with law.

With this, the Writ Petition stands allowed. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

17th June 2016
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