

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.8528 of 2010

And

CONTEMPT CASE NO.1199 OF 2010

Date: 20.09.2016

WP NO. 8528 OF 2010:

Between:

Alla Basivi Reddy s/o Sri A.Subba Reddy,
Aged about 38 years, Occu: Attender,
Sri Ramanama Sankeerthana Sangham,
Ramanagar, Vijayawada, Krishna District

.....Petitioner

and

Sri Ramanama Sankeerthana Sangham,
Ramanagar, Vijayawada, Krishna District,
rep.by its Executive Officer and two others.

.....Respondents



The Court made the following:

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COMMON ORDER:

The above writ petition is filed praying to grant the following relief:

“To issue an appropriate writ or order or direction preferably one in the nature of Writ of Mandamus, to declaring the action of the Respondent No. 1 in not paying the salaries to the petitioner and in removing the petitioner from service without issuing any orders in writing as illegal, void and against to the principles of natural justice and consequently, direct the respondents to continue the petitioner in service as Attender”

2. According to the petitioner, he was appointed as Attender on consolidated pay by the 1st respondent vide order dated 31.08.2006 and he was working w.e.f. 01.09.2006. Petitioner passed 10th Class and belongs to Physically Handicapped category. While so, w.e.f. 01.11.2009 salaries were not paid and petitioner was not asked to come to duty. Aggrieved by the action of the respondents in not paying the salaries for the period he worked and not permitting him to work, this writ petition is filed.

3. This Court, by order dated 14.06.2010, granted interim direction to continue the petitioner in service as Attender in the 1st respondent's temple, on the same terms and conditions on which he was initially appointed.

4. Alleging that said order is not complied with and petitioner is not allowed to resume his duties, above contempt case is filed.

5. In the writ petition, petitioner impleaded the Sri Ramanama Sankeerthana Sangham, Vijayawada, represented by its Executive Officer as 1st respondent. The claim of the petitioner is that the Executive Officer being the competent authority is not continuing the petitioner in service inspite of the direction of this Court. In the contempt case, petitioner impleaded the Dharmadhikari of Sri Sringeri Jagadguru Maha Samsthanam (Sri Sringeri Mutt) as representing the 1st respondent-Sangham. This change is brought about when contempt case is instituted on the ground that 1st respondent-Sangham was taken over by Sri Sringeri Jagadguru Mahasamsthanam, Sringeri, and Sri Sringeri Mutt now appointed the Dharmadhikari as the incharge of the affairs of the 1st respondent-Sangham. Petitioner alleges that in terms of the orders passed by this Court, the present incumbent is duty bound to comply with the orders and ought to have continued the petitioner.

6. As seen from the array of the respondents, Sri Sringeri Mutt is not a party in the contempt as well as in the writ petition. As seen from the averments made in the counter-affidavit in the writ petition as well as in the contempt, the Commissioner of Endowments, by proceedings No.G2/16829/2009, dated 12.04.2010, made under Section 145(1) of Endowments Act, 1987 (Act, 30 of 1987), transferring the 1st respondent-Sangham to Sri Sringeri Jagadguru Maha Samsthanam, Sringeri and the entire charge was handed over on 06.05.2010.

7. The proceedings of 12.04.2010 is not under challenge. As contended by Sri W.B.Srinivas, learned counsel for respondent No.1, it appears that when the charge was handed over, names of

all the employees who were physically on roles and working were furnished and they are being continued in service by the Mutt. It appears that petitioner was absconding from duties w.e.f. 01.11.2009. Therefore, petitioner was not shown as a person working on the date of handing over the charge.

8. It is also appropriate to notice at this stage that by the time writ petition was instituted, orders were already passed in exercise of power under Section 145(1) of the Act 30 of 1987 transferring the 1st respondent institution to the Sringeri Mutt by way of adoption and 1st respondent institution is part of Sringeri Mutt thereafter. Though physical handing over of charge was made on 06.05.2010, but by the time the interim were orders passed, management of the 1st respondent institution changed hands. It is no more an institution under Section 6(b)(ii) of the Endowments Act and the managerial control vested in Sringeri Mutt. Sringeri Mutt is not a party in the writ petition and in the contempt case.

9. In the writ petition the grievance as noted above is only on the alleged oral termination, whereas according to the respondents, petitioner was found absconding. This Court is not inclined to express any opinion on merits of the claim of the petitioner and defence of the respondents. Suffice to note that the successor-Mutt became employer by the time of institution of the writ petition and in the absence of employer as a party to the writ petition, no relief as sought for can be granted at this sage.

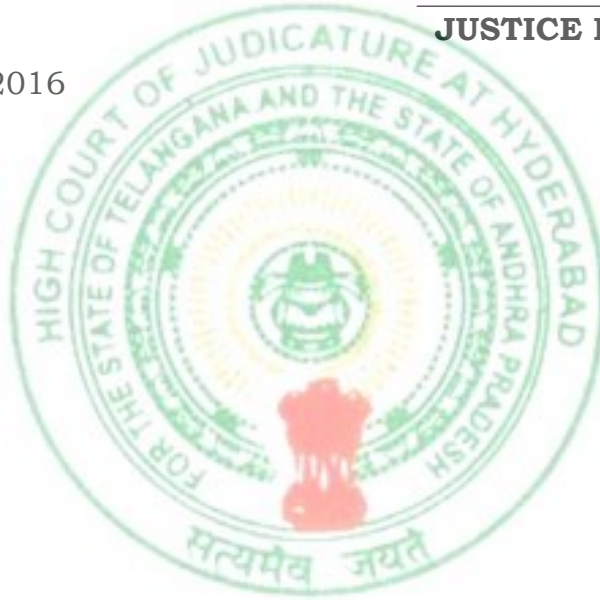
10. Furthermore, this Court cannot compel the authorities of the Sri Sringeri Mutt to comply with the directions when they were not parties to the writ petition even though by the time the writ

petition was instituted, order under Section 145(1) of the Act was already issued and by the time the interim orders were passed, the 1st respondent-institution was completely handed over to the successor-Mutt. I, therefore, see no merit to continue the contempt proceedings also.

11. Accordingly, the writ petition as well as contempt case are dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

Date: 20.09.2016
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JUSTICE P.NAVEEN RAO



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