

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No.21407 of 2015

Date: 10.03.2016

Between:

Syed Shah Akber Nizamuddin Hussaini,
S/o late Mr. Syed Qutubuddin Hussaini,
Aged 57 years, Sajjada nasheen and Mutawalli,
Dargah Hzt Shah Khamoosh (RH) and Ahata Hzt.
Ameer Ali Khan (RH), R/o Nampally, Hyderabad,
Telangana.

..... Petitioner

and

The State of Telangana, rep.by its Principal
Secretary, Minority Welfare Department,
Office at Secretariat, Hyderabad and others.

.....Respondents

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO**

WRIT PETITION No.21407 of 2015

ORDER: (Per the Hon'ble the Acting Chief Justice Dilip B.Bhosale)

This writ petition impugns the show cause notice dated 29.06.2015 issued by the Chief Executive Officer, A.P.State Waqf Board calling upon the petitioner to show cause as to why his services should not be removed from the office of the Muthawalli of the Daragh Hazarat Shah Kamoosh (Rh), Nampally and Dargah Hazrat Peeran Hussaini (Rh), Ehata Ameer Ali Shab, Maharajgunj, Afzalgunj, Hyderabad. With the show cause notice the enquiry report dated 23.01.2015 was also enclosed calling upon him to offer his explanation within 15 days from the date of its receipt. Petitioner did not reply to the notice and chose to approach this Court by way of the present writ petition. In the writ petition, he filed W.P.M.P.No.27576 of 2015, which was heard and petitioner was directed to submit his reply to the show cause notice. Learned counsel for petitioner submits that accordingly the petitioner has submitted his reply to the show cause notice. In view thereof and having considered the settled position of law that writ Court jurisdiction under Article 226 of the Constitution of India cannot be invoked for challenging show cause notice, we are satisfied that this writ petition can be conveniently disposed of by the order that we propose to pass.

2. Mr. Abdul Muqeeth Qureshi, learned counsel for petitioner made an attempt to invite our attention to certain provisions of the Act to contend that issuance of show cause notice itself is without jurisdiction. We are not expressing any opinion on the question of jurisdiction and allowing the petitioner to raise such issue by way of reply to the show cause notice.

Hence, we pass the following order:

- 1) writ petition is disposed of as not maintainable
- 2) As requested by the learned counsel for petitioner, it is open to the petitioner to file additional reply if he so desires and the material that he proposes to rely upon in support thereof within a period of fifteen days from today.
- 3) It is also open to the petitioner to raise all contentions including the issue of jurisdiction of the authority which has issued the show cause notice in his additional reply.
- 4) The concerned authority shall decide the show cause notice on

merits in accordance with the law expeditiously and while doing so, may deal with all the contentions including the issue of jurisdiction. All contentions of the parties are kept open.

Miscellaneous petitions if any pending in the writ petition shall stand closed. No costs.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date : 10.03.2016

Kkm /tvk

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

-
-
-
-
-

— — — — —

WRIT PETITION No.21407 of 2015

Date: 10.03.2016

kkm/tvk