

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.3699 of 2016

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Date: 08.02.2016

Between:

Mohd.Rehmatullah

.. Petitioner

and

The State of Andhra Pradesh
rep. by its Prl.Secretary
Minority Welfare Dept.,
Hyderabad and 4 others

.. Respondents

Counsel for the petitioner : Mr.Abdul Muqeeth Qureshi

Counsel for respondent No.1: AGP for Minority Welfare

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The Court made the following:

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Order:

This Writ Petition is filed for a Mandamus to

set aside the proceeding in F.No.n/MC/PKM/2015/Z-V, dated 04-01-2016, of respondent No.2, whereby it has constituted a Managing Committee comprising eleven persons for Jamia Mosque, Ongole Town, Prakasam District.

I have heard Mr.A.M.Qureshi, learned Counsel for the petitioner, and Mr.Mruthyunjaya Sastry Nivarthi, learned Counsel representing Mr.Syed Naimullah, learned Standing Counsel for the Andhra Pradesh Wakf Board.

At the hearing, the only point that is urged by the learned Counsel for the petitioner is that his client was earlier suspended; that assailing the same, he has filed WP.No.12519 of 2014; that though no interim order has been granted therein, the said Writ Petition is pending; that though the petitioner is under suspension, in law no vacancy had arisen in the office of Mutawalli; and that therefore, pending the enquiry, respondent No.2 ought not to have constituted a Managing Committee.

Under Section 18 (1) of the Wakf Act, 1995 (for short 'the Act'), the Board may, whenever it

considers necessary, establish, either generally or for a particular purpose or for any specified area or areas, Committees for the supervision of wakfs.

In the light of the above provision, this Court is of the opinion that there need not be a permanent vacancy for appointment of a Managing Committee for the purpose of supervision of the Wakf. Admittedly, the petitioner is under suspension and there is no other person entitled in law to look after the affairs of the Wakf. Respondent No.2, which has jurisdiction over innumerable number of Wakfs, is not expected to take all those Wakfs where Mutawallis are not functioning for whatever reason under their direct management in the absence of proper wherewithal. Therefore, I do not find any illegality in the action of respondent No.2 in constituting the Managing Committee.

The learned Counsel for the petitioner, however, submitted that under Section 64 (5) of the Act, a Muthawalli can be suspended only until the conclusion of the inquiry and that the stipulation in the impugned order that the Committee is constituted for a period of one year subject to the outcome of the decision in WP.No.12519 of 2014 is

contrary to the said provision. Undoubtedly, the petitioner's suspension cannot be continued after completion of the inquiry. If the inquiry is concluded within the period of one year from the date of constitution of the Managing Committee, the Committee will automatically cease to exist. In view of the same, it is clarified that the Managing Committee will continue to function either for one year or till disposal of W.P.No.12519 of 2014 or till conclusion of the inquiry, whichever is earlier.

Subject to the above clarification, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.4726 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 8th February, 2016
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