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THE HON'BLE SRI JUSTICE A.V. SESA SAI

W.P.No.21019 of 2010

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order dated 17.08.2010 passed by the District Legal Services Authority-cum-District Judge, District Court Buildings, YSR (Kadapa)

District /first respondent herein.

2. Heard Sri P.Veera Reddy, learned Senior Counsel appearing for the counsel for the petitioner on record Sri K.Murali Krishna and the learned Government Pleader for Education for respondent No.2 and Sri T.S.Praven Kumar for the third respondent.

3. In connection with the recognition of status of Secretary-cum-Correspondent of the institution held by Sri Bahuthama Vidya Dana Sabha, the third respondent herein filed W.P.No.12162 of 2007 before this Court, arraying the petitioner herein as respondent No.4. This Court, by way of an order dated 10.11.2009, disposed of the said writ petition and the operative portion of the said order reads as under:

“Hence, the Writ Petition is disposed of directing that

(a) The petitioner and the fourth respondent shall submit the relevant record of the Society together with the list of members to the District legal Services Authority within a period of two {2} weeks from today;

(b) The District Legal Services Authority shall examine the list of members and publish the list of voters within two {2} weeks thereafter. On the date of publication of the voters list itself, he shall publish the election programme by leaving a gap of fifteen {15} days between the date of notice and the date of election to the respective positions of the Managing Committee. The result of election shall be communicated to respondents 2 and 3 and to all the competent authorities of the Education Department;

(c) The Authority concerned shall issue necessary proceedings recognizing the one i.e., the persons that are elected as Correspondents for the respective

institutions, within a period of four {4} weeks from the date of communication;

(d) Neither the petitioner nor the fourth respondent shall be entitled to add any new members to the existing list of members; and

(e) Till the completion of this process, the arrangement in Vogue shall continue.

There shall be no order as to costs.”

4. Subsequently, the petitioner herein, complaining inaction on the part of the first respondent, filed WPMP.No.7039 of 2010 in W.P.No.12162 of 2007 before this Court and this Court passed an order on 21.07.2010 directing the parties to approach the District Legal Services Authority-cum-District Judge, Kadapa for taking steps indicated in the order dated 10.11.2009, within two weeks and further directed the learned Chairman to complete the steps duly maintaining the time gap between various steps as indicated earlier in the order dated 10.11.2009.

5. On 04.08.2010, the District Legal Services Authority directed the petitioner to furnish the list of members together with relevant records, if any, within three days and according to the petitioner, the petitioner herein furnished the same. Thereafter, vide notice dated 12.08.2010, while enclosing a copy of the list of members furnished by the third respondent, the District Legal Services Authority, directed the petitioner to submit objections on or before 13.08.2010 without fail. In response to the same, on 13.08.2010, petitioner herein submitted his objections and earlier to the same petitioner herein also submitted an explanation dated 09.08.2010 to the first respondent. On 13.08.2013, the third respondent also submitted his objections. Thereafter, the District Legal Services Authority, by virtue of an order vide proceedings dated 17.08.2010, rejected the list furnished by the fourth respondent on the ground that the fourth respondent did not produce any details/proof. The said order passed by the first respondent District Legal Services Authority is under challenge in

the present writ petition.

6. According to the learned Senior counsel the said order passed by the first respondent is highly erroneous, contrary to law and not in consonance with the orders passed by this Court in W.P.No.12162 of 2007 dated 10.11.2009. It is also the submission of the learned Senior Counsel that though the petitioner submitted as many as 17 documents in support of his case, the first respondent did neither advert to nor considered the said documents and the objections raised on the list furnished by the third respondent. It is also the submission of the learned counsel that though this Court in W.P.No.12162 of 2007 directed the first respondent to publish the election programme by leaving a gap of fifteen days between the date of notice and the date of election, the first respondent issued a notification dated 18.03.2010, fixing the date of election as 31.08.2010 and on this ground the election notification is liable to be set a side. Pursuant to the impugned order on 18.08.2010, the first respondent also issued a notification proposing to hold elections on 31.08.2010. The said order and the notification are under challenge.

7. Strongly repulsing the contentions advanced by the learned Senior Counsel, it is vehemently contended by the learned counsel for the third respondent that there is no illegality in the impugned order passed by the first respondent and the present writ petition is not maintainable and the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is the further submission of the learned counsel that the claim of the petitioner is tainted with fraud and the petitioner is not entitled for any indulgence of this Court under Article 226 of the Constitution of India and the petitioner herein was never a member of the society.

8. The information available before the Court manifestly

discloses that this Court by way of an order dated 10.11.2009 in W.P.No.12182 of 2007 specifically directed the petitioner and the third respondent herein to submit the relevant record of the society together with a list of members to the first respondent and in terms of the same the petitioner and the third respondent submitted all relevant records so also the list of members. It is also evident from a reading of the said order in W.P.No.12162 of 2007 that this Court specifically directed the first respondent to examine the list of members and to publish the list of voters within two weeks. It is to be noted that there is absolutely no dispute with regard to the reality that the petitioner as well as the third respondent herein submitted their objections to the list and the petitioner herein also submitted number of documents before the first respondent. A perusal of the order dated 17.08.2010, clearly shows that except indicating the information furnished by the petitioner and the third respondent as the references, the first respondent did not undertake any exercise to find out the validity of the information furnished by the petitioner and the third respondent simply rejected the list furnished by the petitioner herein without assigning any reasons, much less, valid reasons. In the considered opinion of this Court, the said action cannot be sustained in the eye of law and the same is obviously not in consonance with the directions of this Court in W.P.No.12162 of 2007. Therefore, this Court has absolutely no scintilla of hesitation to hold that the impugned order dated 17.08.2010 and the consequential notification dated 18.08.2010 cannot be sustained in the eye of law.

9. For the aforesaid reasons, the writ petition is allowed, setting aside the order dated 17.08.2010 and the consequential notification dated 18.08.2010 issued by the first respondent herein and consequently the first respondent is directed to take action in accordance with the orders of this Court passed in W.P.No.12162 of 2007, dated 10.11.2009, by duly considering the information

made available by the petitioner as well as the third respondent herein and take appropriate action as expeditiously as possible. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V. SSHA SAI, J

Date:04.7.2016

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THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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W.P.No.21019 of 2010

Dated 04th July, 2016

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