

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.39685 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of the 3rd respondent in issuing the notice in Rc.No.B2/7212/2015, dated 03.11.2016, as violative of Section 15(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act'), and to set aside the same.

Heard and perused the material available on record.

The case of the petitioners is that the petitioners are Hindus and they are entitled to attend and in the habit of attending performance of services, worship connected with Sri Sitarama Swamy Temple, Mudinepalli Village & Mandal, Krishna District. It is further case of the petitioners that when the present Board was taken on charge, they put the fish tank for public auction in order to get the best maximum price for the benefit of the temple and that in the present year when the auction was conducted for the period from 10.03.2016 to 09.03.2019, the auction was knocked down for a sum of Rs.5,82,323/- per annum which consists of Rs.17,40,975/- for three years and in the said auction one K. Vinod Kumar was a successful bidder, but the said Vinod Kumar deposited only Rs.2,82,500/- and failed to deposit the balance amount of Rs.2,97,825/-. Then the Trust Board of the temple represented the said fact to the 5th respondent with a request to take legal action for recovery of balance amount, but the 5th respondent failed to take any action to recover the balance amount. Then a representation was made to the 1st respondent on 21.07.2016 with a request to take necessary steps, but no steps were taken and the said Vinod Kumar harvested the 2nd crop also without paying the balance amount. The main grievance of the

petitioners is that the 3rd respondent, instead of initiating legal proceedings against the said Vinod Kumar, has issued proceedings, dated 29.07.2016, wherein they have appointed one S.V.S. Subba Rao, Executive Officer of Sri Veeranjanya Swamy Temple, Gudivada, as a Single Trustee to the subject temple for a period of two years, which is contrary to Sections 18 & 19 of the Endowments Act and that the said proceedings, dated 29.07.2016, was challenged before this Court by the Chairman of the Trust Board vide W.P.No.28064 of 2016, whereby this Court granted interim suspension of the said proceedings on 22.08.2016. It is further case of the petitioners that the Chairman issued a notice to the said Vinod Kuamr on 19.08.2016 calling upon him to show cause as to why he shall not be treated as an encroacher under Section 83 of the Act by duly lodging a complaint to the 4th respondent and a copy of the said notice is communicated to respondents 2, 3 & 5 and that even after receipt of the said notice, no action was taken by the respondents against the said defaulter. The Chairman of the subject temple made representation to the District Collector, Krishna District as well as the Superintendent of Police, Machilipatnam, on 03.10.2016, informing them that the said Vinod Kumar has defaulted in making the full bid amount, but the department is not taking any action.

The main contention raised by the learned counsel for the petitioners is that in the guise of the impugned notification, the 3rd respondent intend to nominate unscrupulous person i.e., who is chronic defaulter in payment of the balance amount to the temple and the learned counsel for the petitioners informed that the petitioners apprehend that in the guise of the impugned notification, there is every possibility that the persons those who are not eligible can be appointed.

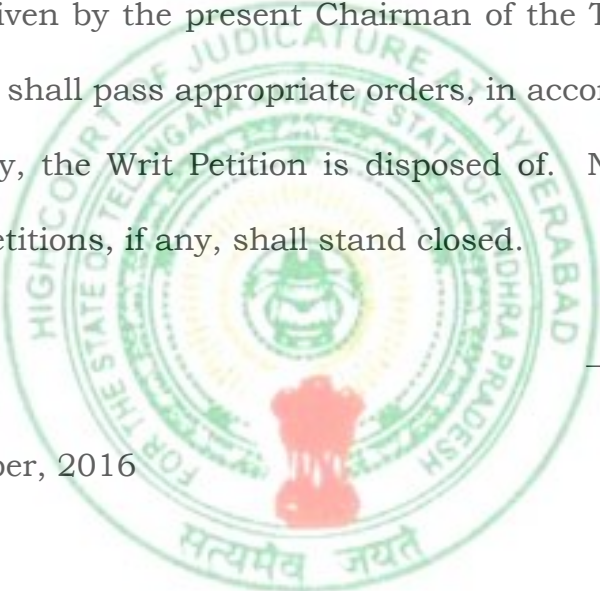
Considering the apprehension of the petitioners and the submissions of the learned counsel for the petitioners, this Court is of

the view that this Court is not inclined to entertain this writ petition, but at the same time, this Court is of the view that while appointing the trustees as per the impugned notification, necessarily the appointing authority should take into consideration if there are any representations or complaints against the persons, who are intend to be nominated as trust members, and shall pass appropriate orders.

Having regard to the same, the Writ Petition is disposed of with the following direction:

While appointing the trustees to the subject temple, the 3rd respondent is directed to consider all the legal aspects as well as the representation given by the present Chairman of the Trust Board, dated 03.10.2016, and shall pass appropriate orders, in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.



RAJA ELANGO,J

Date: 1st December, 2016

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