

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.3467 of 2016

ORDER:

Sawaran Mosque Ad hoc Managing Committee, the petitioner herein, was appointed under the proceedings dated 03.09.2015 passed by the Andhra Pradesh State Wakf Board. The petitioner - Committee was constituted replacing the Managing Committee which had been appointed for a period of two years under the proceedings dated 02.01.2014.

However, aggrieved by the appointment of the petitioner – Committee under the proceedings dated 03.09.2015, W.P.No.31332 of 2015 was filed by one of the members of the erstwhile Committee. By interim order dated 28.09.2015 passed therein, this Court granted suspension of the proceedings dated 03.09.2015, whereby the petitioner – Committee was appointed.

Owing to the order passed by this Court, the Wakf Board issued proceedings dated 18.01.2016 again appointing the erstwhile Managing Committee as the Managing Committee for a further period of one year without financial powers. Thereupon, W.P.No.31332 of 2015 was dismissed as infructuous on 28.01.2016. Perusal of this order reflects that Sri K. Mohan Rami Reddy, learned counsel for the 3rd respondent herein, who seems to have appeared for the petitioner in the said writ petition, informed the Court that in view of the constitution of the Managing Committee under proceedings dated 18.01.2016, his client sought to withdraw the writ petition.

Sri S.M. Subhani, learned counsel for the petitioner – Committee, objected thereto stating that an implead application had been filed by his client and that the interim order suspending the proceedings dated 03.09.2015 was obtained behind their back. However, taking note of the fact that the petitioner therein wanted to withdraw the writ petition, this Court observed that it was unnecessary

to examine the said aspect and left it open to the petitioner – Committee to avail appropriate legal remedies, if it felt aggrieved by the proceedings dated 18.01.2016.

Unfortunately, the parties did not take note of the fact that dismissal of the writ petition as infructuous resulted in the interim order dated 28.09.2015 passed therein ceasing to operate. Thereby, the proceedings dated 03.09.2015, which were under challenge in the said writ petition and which were not set aside finally, revived. Thus, as matters stand, both the proceedings viz, the proceedings dated 03.09.2015 and the proceedings dated 18.01.2016, are currently in operation.

Given this situation, as there seem to be separate panels vying to be appointed as the Managing Committee of the subject Mosque, the Wakf Board would necessarily have to resort to holding an election under Regulation 5(ii) of the Andhra Pradesh Wakfs Managing Committee (Constitutions, Functions and Duties) Regulations, 2009.

It appears that the Wakf Board has already taken a decision in this regard as is evident from the Memo dated 16.09.2015, whereby the Inspector Auditor, Wakfs, Karimnagar District, was asked to conduct an election for constituting a new Managing Committee for the subject Mosque.

It is however relevant to note that the proceedings dated 03.09.2015 indicate that the reason for replacing the erstwhile Managing Committee was owing to the complaints received as against the said Committee in relation to mismanagement and misappropriation. No doubt, the Committee ought not to have been displaced before expiry of its term without following the principles of natural justice. However, as matters stand, the two year term under the proceedings dated 02.01.2014 has already expired and the 3rd respondent cannot claim any right to continue at this stage.

Given the afore-stated fact situation and to protect the interest of the Mosque, this is a fit case for the Wakf Board to assume direct

management of the Mosque under Section 65 of the Wakf Act, 1995. The Wakf Board shall accordingly exercise such powers and take over the management of the subject Mosque, pending constitution of a Managing Committee after holding due election. The election process in this regard shall be completed expeditiously and in any event, not later than one month from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:23.03.2016

PGS