

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.36682 of 2015

ORDER:

This Writ Petition is filed questioning the G.O.Ms.No.199, dated 03.11.2015 issued by the 1st respondent, by which 8th respondent-Sri Bhagyanagar Bhavsar Kshatriya Charitable Trust (in short "the Trust") was granted exemption from the operation of Sections 15 and 29 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act-1987 (in short "the Act").

It is the case of the petitioner that 8th respondent was established by some philanthropic individuals belonging to Bhagyanagar Bhavsar Kshatriya community for philanthropic purpose. The Trust is registered as an endowment under Section 6(e) of the Act and with the funds donated by the Philanthropies and also from the monies borrowed, construction of a commercial complex was commenced in 2009 and completed in 2012. The property belongs to Bhagyanagar Bhavsar Kshatriya Charitable Trust. The respondents 5 to 7 are treating the Trust as their family trust, they filed O.A.No.403 of 2015 before the Endowment Tribunal seeking a declaration that they are founder family members, though they are not in any way connected with the founder trustees. Petitioner filed implead petition in the said O.A. and opposing the granting of any such certificate under Section 87(1)(h) read with 45 of the Act. In the said O.A. the respondents 5 to 7 also filed application seeking exemption from the purview of the Act and we have filed the counters opposing the same. While the matter stood thus, the impugned G.O. came to be issued without any notice to the petitioner and also when the matter is pending before the Endowments Tribunal for the similar relief. It is also one of the principal contentions of the petitioner that before granting exemption, opportunity of hearing ought to have been given to the petitioner.

Denying the various allegations made by the petitioner no counter

affidavit has been filed by the official respondents.

When the matter is taken up for hearing, learned counsel appearing for the respondents 5 to 7 submits that as one of the principle allegations of the petitioner that they were not being given any opportunity of hearing before making the order, which is not being denied by them, he submits that the impugned G.O. may be set aside directing the Government to pass appropriate orders after taking into consideration of the objections, if any, by the writ petitioner. He would also submit that opportunity of hearing may also be given to the respondents 5 to 7 to justify the reasons for granting exemption from the purview of the Act.

In the circumstances, having considered the rival submissions and considering the fact no opportunity of hearing was given to the petitioner, Writ Petition is allowed by setting aside the G.O.Ms.No.199, dated 03.11.2015, leaving it open to both the parties to approach the government for passing appropriate orders.

Accordingly, the writ petition is allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:27.04.2015.

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