

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.35187 of 2016

ORDER:

The petitioner challenges proceeding No.29/Z1/T/Hyd/2014-I dated 04.05.2016 as contravening proviso to Sub-Section (5) of Section 64 of the Wakf Act, 1995 (for short 'the Act').

2. The proceeding impugned in the writ petition reads thus:

"The matter has been examined by the Competent Authority Telangana State Waqf Board who after careful examination passed orders to place the Mutawalli under suspension U/s 64(5) of the Waqf Act, duly keeping the subject Waqf institution under Direct Management of the Waqf Board.

Accordingly Janab Sri. Fazluallah Shah Quadri, Mutawalli of Dargah Hazrat Darvesh Mohiuddin with Graveyard, Naqar Khana, Khana Kha Sarai and agricultural land is placed kept under suspension U/s 64(5) of the Waqf Act, 1995 and the Waqf institution namely Dargah Hazrat Darvesh Moiuidding with Graveyard, Naqar Khana, Khana Kha Sarai and agricultural lands is hereby taken under the Direct Management of Telangana State Waqf Board, for proper administration, Management. The inspector Auditor Waqf Circle No.4 is hereby directed to assume the complete charge of the subject Waqf institution under cover of panchanama and report."

3. The complaint against the impugned proceeding is that the second respondent did not follow the mandatory procedure stipulated by proviso to sub-section (5) of Section 64 of the Act. In other words, without giving reasonable opportunity the petitioner is placed under suspension beyond the prescribed period.

4. On 19.10.2016, at the request of respondents, the writ petition was adjourned to today to satisfy the Court whether the procedural requirement of proviso read above, though not adverted to in the impugned proceeding, was followed by second respondent or not.

5. The second respondent-board has placed before the Court the file on the subject. The board is unable to satisfy the Court that the procedure is followed. Learned standing counsel fairly admits to this factual omission in issuing notice to petitioner. The impugned proceeding, on the short ground, is set aside.

The writ petition is ordered accordingly. It is made clear excepting the proceeding impugned in the writ petition this Court has neither considered any other issue pending with the board against the petitioner nor has taken note of any other order passed in this behalf. The interference by this Court on the technical ground does not, however, preclude the board in acting in accordance with law. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

October 21, 2016
DSK

S. V. BHATT, J