

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

**WRIT PETITION No.11744 OF 2016**

**ORDER:**

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Regional Joint Commissioner, Rajahmundry, East Godavari District –

2<sup>nd</sup> respondent herein vide proceedings Rc.No.A3/5030/15-11, dated 17.02.2016.

2. Heard Sri N.Guru Gopal, learned counsel, appearing for the petitioner, learned Government Pleader for Endowments, appearing for the respondents 1 and 2 and Smt.K.Lalitha, learned standing counsel, appearing for the respondents 3 and 4, apart from perusing the material available before this Court.

3. By virtue of the impugned proceedings dated 17.02.2016, the Regional Joint Commissioner of Endowments, Rajahmundry, East Godavari District, stayed the orders passed by the Deputy Commissioner of Endowments, issued vide Rc.No. A1/6684/13.Adm., dated 04.06.2013. The Deputy Commissioner, by way of the said order dated 04.06.2013, accorded permission to utilise the services of the petitioner in the 3<sup>rd</sup> respondent institution.

4. Principally, there are two contentions raised by the learned counsel for the petitioner in the present writ petition. i.e., 1) the order passed by the Regional Joint Commissioner – 2<sup>nd</sup> respondent is totally one without jurisdiction; and 2) without giving opportunity, the 2<sup>nd</sup> respondent passed the impugned order, which is in violation of the provisions of the Endowments Act.

5. With regard to the first contention, touching the aspect of the

jurisdiction, it is vehemently contended by the learned Government Pleader that by way of G.O.Ms.No.81, Revenue (Endowments-I) Department, dated 25.01.1989, the powers exercisable by the Commissioner under Section 92 of the Endowments Act have been delegated to the Regional Joint Commissioner and a copy of the said governmental order is placed before this Court by the learned Government Pleader. According to the said G.O., the powers exercisable by the Commissioner under Section 92 of the Endowments Act have been delegated to the Regional Joint Commissioner. Therefore, the first contention raised by the writ petitioner with regard to the jurisdiction of the 2<sup>nd</sup> respondent cannot be sustained in the eye-of-law.

6. Coming to the 2<sup>nd</sup> contention advanced by the learned counsel for the petitioner that the order passed by the 2<sup>nd</sup> respondent is unsustainable and untenable in view of failure on the part of the 2<sup>nd</sup> respondent in giving any opportunity before resorting to the impugned action, it is to be noted that as per sub-section (2) of Section 92 of the Endowments Act, the Authority shall not pass any order prejudicial to anybody under sub-section (1) of Section 92 of the Endowments Act, without giving any opportunity for making representation. In the instant case, the 2<sup>nd</sup> respondent passed the impugned order without being preceded by any opportunity to the petitioner herein as mandated under Section 92(2) of the Endowments Act. On this ground, the impugned order is liable to be set aside.

8. For the aforesaid reasons, Writ Petition is allowed, setting aside the order passed by the 2<sup>nd</sup> respondent – Regional Joint Commissioner vide proceedings Rc.No.A3/5030/15-11, dated 17.02.2016, to the extent of the petitioner and the matter is remanded to the 2<sup>nd</sup> respondent for fresh consideration, in accordance with law,

after giving notice and opportunity of being heard to the petitioner herein. It is also made clear that on receipt of the notice from the 2<sup>nd</sup> respondent, the petitioner herein is entitled to raise all the objections.

9. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

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**A.V.SESHA SAI, J**

*11.04.2016*  
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