

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

WRIT PETITION No.4727 of 2016

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the proceedings of the Regional Joint Commissioner of Endowments Department, Kakinada vide Rc.No.A3/3656/2015, dated 15-08-2015.

Heard Sri N. Guru Gopal, learned counsel for the petitioner, learned Government Pleader for Endowments for respondent Nos.1 to 3 and Ms.K. Lalitha, learned Standing Counsel for respondent Nos.4 and 5.

Shorn of in-appropriate details the facts that are essential for disposal of the present writ petition are:

The petitioner was initially appointed as Junior Assistant on 16-02-1997 in Sri Vigneswara Swamy Temple, Tiyyalavari Veedhi, Old Salipeta, Visakhapatnam – 5th respondent herein and his services were regularized in the same temple vide D.Dis.No.B1/2640/2004 Estt., dated 26-06-2005 by the Assistant Commissioner of Endowments, Visakhapatnam. Subsequently, the petitioner was transferred to Sri Jagannadha Swamy Temple, Visakhapatnam – 4th respondent herein on 16-05-2006 by virtue of the orders passed by the Commissioner of Endowments, Hyderabad.

Now by virtue of the impugned proceedings Rc.No.A3/3656/2015, dated 15-08-2015 the Regional Joint Commissioner of Endowments Department, Kakinada posted the petitioner in the 5th respondent temple. The said order passed by

the Regional Joint Commissioner of Endowments Department, Kakinada is assailed in the present writ petition principally on the ground of jurisdiction.

It is the contention of the learned counsel for the petitioner that the Regional Joint Commissioner of Endowments Department, Kakinada has no jurisdiction to pass the impugned order in view of the provisions of Section 39 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act').

On the other hand, it is the contention of the learned Government Pleader that there is no illegality in the impugned order and the order is in accordance with the provisions of the Act.

In order to consider the said rival contentions it may be appropriate to refer to Section 39 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, which reads as under:

"39. Transfer of office holders and servants:- (1) The Commissioner shall have power to transfer any office holder or servant attached to a charitable or religious institution or endowment from that institution or endowment to any other institution or endowment in accordance with such rules as may be made by the Government in this behalf.

(2) The Deputy Commissioner or the Assistant Commissioner, as the case may be, having jurisdiction over the area shall have power to transfer any office holder or servant attached to a charitable or religious institution or endowment from that institution or endowment to any other institution or endowment in accordance with such rules as may be made by the Government in this behalf."

It is very much clear from a reading of the above provision

of law that the Regional Joint Commissioner of Endowments has no jurisdiction to pass the impugned order, therefore, on this ground of lack of jurisdiction this Court is inclined to set aside the impugned order.

For the aforesaid reasons, the writ petition is allowed, setting aside the proceedings in Rc.No.A3/3656/2015, dated 15-08-2015 only to the extent of the petitioner herein. However, this order will not preclude the respondent authorities to take appropriate action, in accordance with law.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

A.V. SETHA SAI, J

February 17, 2016

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