

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.13150 of 2016

ORDER:

Heard Sri Sitaram Chaparla, learned counsel for the petitioner, and Sri Arifulla, learned Standing Counsel for the Andhra Pradesh State Wakf Board.

The prayer of the petitioner in this case is as under:

“This Hon’ble Court may be pleased to issue a writ order or direction more particularly one in the nature of Mandamus declaring the action of the 1st respondent in issuing Memo vide proceedings F.No. L2/26/KNL/WPNo. 10457/2016, dt. 07.04.2016 and consequent election schedule issued by the 3rd coincident vide proceedings F.No.L2/26/KNL/WPNo. 10457/2016, dt.11.04.2016 as highly illegal, arbitrary, against all canons of natural justice, contrary to the scheme of the Board of Trustees dt. 26.09.1953 and also contrary to the spirit of the Hon'ble High Court orders and offends Article 25 and 26 of the Constitution of India and consequently set aside the same and to pass such other order or orders as this Hon’ble Court may fit and proper in the circumstances of the case.”

Sri Sitaram Chaparla, learned counsel, would contend that notwithstanding the order dated 03.01.2014 passed by this Court in W.P.No.336 of 2014 and the subsequent orders, the Wakf Board is continuing to violate the scheme which is required to be followed while conducting the elections for the subject wakf institution, the 4th respondent.

Perusal of the order dated 03.01.2014 passed by this Court in W.P.No.336 of 2014 reflects that the Wakf Board was required to examine the scheme and if it came to the opinion that it was not necessary to follow the said scheme, it was to pass appropriate orders giving reasons for rejecting the claim of the petitioners in the said writ petition and communicate the same to them within a time frame. It is fairly admitted by Sri Arifulla, learned Standing Counsel, that no such exercise has been undertaken by the Wakf Board. If that be so, it is not open to the Wakf Board to fail to follow the norms as stipulated in the scheme while proposing to conduct an election for the 4th respondent

– institution. Admittedly, the collection of Rs.1,200/- as a nomination fee from each contestant, which seems to have been reduced thereafter to Rs.300/- under Election Notification dated 19.04.2016, is in violation of the terms of the scheme which only provide for collection of a lesser amount from each contestant.

In that view of the matter, the Wakf Board is clearly acting in violation of the scheme though it has not even taken a decision on the issue as permitted by this Court in its order dated 03.01.2014 in W.P.No.336 of 2014. The impugned memo and notification are therefore unsustainable in law and are accordingly set aside. It shall be open to the Wakf Board to follow the due procedure as stipulated by this Court and take appropriate action in the matter in accordance with law.

The writ petition is allowed to the extent indicated above.

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

JUSTICE SANJAY KUMAR

Date:20.04.2016

GJ