

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION No.22409 of 2015**

**ORDER:**

As there was no representation on behalf of the respondents on 22.06.2017, the matter was directed to be listed on 29.06.2017, under the caption 'for orders'. Even today, there is no representation on behalf of the respondents. Heard Sri O.Manohar Reddy, learned counsel for the petitioners and perused the record.

2. The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the orders passed in case No.51 of 2015, dated 05.06.2015 by respondent No.1, as illegal and arbitrary.

3. The averments in the affidavit filed in support of the writ petition would show that the first petitioner- Andhra Evangelical Lutheran Church is a registered Society and the second petitioner is the treasurer of the said Society. It is stated that the second respondent made a representation seeking injunction restraining the petitioners, to stop all illegal sales of trust and religious properties, lease/gift, transaction, pending disposal of the petition. Further, the petitioner sought for a direction to the District Registrars of Guntur, Prakash, East Godavari, West Godavari and Vishaka Districts, not to register any documents relating to the properties of the Andhra Evangelical Lutheran Church. It is the case of the petitioners that the first respondent

has assigned a case vide case No.51 of 2015, without any jurisdiction, towards the representation made by the second respondent and passed an ex parte order of status-quo against the petitioners herein. Hence, the present writ petition came to be filed.

4. As seen from the impugned proceedings, the State Minorities Commission passed the following order:

“The Commission while ordering, notice to the President, Vice President and Treasurer is also pleased to issue order of status quo of the properties detailed above till such time and until further orders are passed in this regard.

The Commission also directs the District Collector, Guntur to cause a detailed enquiry in the meantime to protect the properties of the Church.

The Commission also directs the District Registrar, Guntur, to issue necessary orders to its sub-ordinate offices and competent officials not to register any lease documents pertaining to the above said properties. The District Registrar is also directed to submit the status of the properties of the Church before the Commission along with valuation.”

5. The short question that arises for consideration is whether the Commission constituted under the A.P.State Minorities Commission Act, 1998 (for short, ‘the Act’), can examine the complaint of the second respondent.

6. Section 11 of the Andhra Pradesh State Minorities Commission Act, 1998 deals with the powers of the Commission, which reads as under:

“(1) The Commission shall while performing its functions under Section 12, have the powers of a Civil Court trying a suit and in particular, in respect of the following matters namely:

- (i) summoning and enforcing the attendance of any person from any part of the State and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavits;
- (iv) requisitioning any public record or copy thereof from any Court or office;
- (v) issuing Commissions for the examination of witnesses or documents;
- (vi) any other matter which may be prescribed.

(2) The Commission shall have the power to requisition such information, document and such assistance as may be required from any department of the Government for the effective implementation of the provisions of this Act.

Section 12 of the Andhra Pradesh State Minorities Commission Act, 1998 deals with the functions of the Commission, which reads as under:

“ (1) The Commission shall perform the following functions, namely:

- a) to evaluate the working of various safeguards provided in the Constitution for the protection of minorities and in laws passed by the Union and State Governments;
- b) to make recommendations with a view to ensure effective implementation and enforcement of all (safeguards and) the laws;
- c) to undertake a review of the implementation of the policies, pursued by the Union and the State Governments with respect to the minorities;

d) to look into specific complaints regarding deprivation of rights and safeguards in the interest of the minorities...”

Under the scheme of the Act, powers are broadly given to the first respondent-Commission to examine any deprivation of rights and safeguards of the minorities as defined under Section 12(d) of the Act. It is to be noted that the second respondent made a representation before the State Minorities Commission alleging that the Church property is being leased out without following the bye laws and against the objects of the Trust. Without having power under the Act or deriving the same from the bye-laws of the Society, the Minorities Commission ordered *status-quo* with regard to properties, directed the District Collector to conduct an enquiry and also directed the District Registrars to issue directions to their sub-ordinates, not to register any properties.

It is to be noted here that while dealing with a somewhat identical issue, this Court in ***Sri Vijaya Visakha District Co-operative Milk Producers Union Limited, Visakhapatnam Vs. A.P. State Minorities Commission, Hyderabad and another<sup>1</sup>***, held as under:

“...this Court is of the view that in matters relating to the service of employees, where disciplinary and appeal rules govern the filed, it is not open to the first respondent-Commission to make an enquiry on the complaint similar to the one made by the second respondent. In the decision of the Hon’ble Supreme Court, relied on by the learned counsel for the petitioner-Society, in All India Indian Overseas Bank SC and ST Employees’ Welfare Association’s case, when injunction orders were issued by the

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<sup>1</sup> 2013(2)ALD 595

National Commission for SCs. and STs while examining the scope of such orders, the Hon'ble Supreme Court has held that the Commission having not been specifically granted any power to issue interim injunctions, lacks the authority to issue such an order. As the powers of the National Commission for SCs and STs., under the said Act are almost identical with that of the powers conferred on the 1<sup>st</sup> respondent-Commission and in absence of any power to meddle with the orders passed in the disciplinary proceedings, against individual employees, by the competent authority of the petitioner-Society, the 1<sup>st</sup> respondent-Commission inherently lacks jurisdiction to interfere in such matters.

For the aforesaid reasons, this Court is of the considered opinion that the impugned proceedings, initiated on the complaint of the 2<sup>nd</sup> respondent, are totally without jurisdiction. As such, this writ petition is allowed as prayed for interdicting the 1<sup>st</sup> respondent-Commission from proceeding further in pursuance of the impugned proceedings. No order as to costs."

7. In view of the above and having regard to Sections 11 and 12 of the Act, the impugned order is set aside and the writ petition is accordingly allowed. There shall be no order as to costs.

8. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

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**JUSTICE C. PRAVEEN KUMAR**

Date: 29.06.2017  
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