

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

WRIT PETITION No.25369 of 2017

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the second respondent-Assistant Commissioner, Endowments Department, Ongole in appointing one Sri Muppala Venkatanarasa Raju as a Trustee of the Trust Board of Bhairavaswamy Temple, Bhairavakona, Ambavaram Village, C.S. Puram Mandal, Prakasam District.

2. Heard learned counsel for the petitioner and learned Government Pleader for Endowments (A.P) for the respondents apart from perusing the material available on record.

3. The principal contention advanced in the present writ petition is that the second respondent ought not to have appointed said Muppala Venkatanarasa Raju as a Trustee of the Trust Board of said Temple in view of the disqualification suffered by him under the provisions of Section 19(1)(e) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the Act). Elaborating this contention, it is submitted by the learned counsel for the petitioner that in C.C.No.247 of 2007 on the file of the Judicial Magistrate of First Class, Kanigiri, said Muppala Venkatanarasa Raju was shown as accused No.1 and in FIR No.16 of 2016 on the file of the C.S. Puram Police Station, Prakasam District, one Sri Derangula Thirumala Kondaiah, a mason working in the construction activity of said Muppala Venkatanarasa Raju, was shown as one of the accused.

4. On the other hand, it is submitted by the learned Government Pleader that said CC.No.247 of 2007 ended in acquittal and registration of FIR No.16 of 2016 against said Derangula Thirumala Kondaiah does not attract the provisions of Section 19(1)(e) of the Act.

5. In order to examine the above said issue, it is appropriate to refer to the provisions of Section 19(1)(e) of the Act, which deals with the disqualification of trusteeship, and it reads as under:

“19. Disqualification for trusteeship:- (1) A person shall be disqualified for being appointed as, or for being, trustee of any charitable or religious institution or endowment:-

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) if he has been sentenced by a Criminal Court for an offence involving moral turpitude, such sentence not having been reversed.”

6. It is very much evident from the above provision of law that in order to suffer the disqualification under the said provision of law, there must be a conviction by a criminal Court. In the instant case, C.C.No.247 of 2007 on the file of the Judicial Magistrate of First Class, Kanigiri, wherein Muppala Venkatanarasa Raju was shown as accused No.1, ended in acquittal and it is not the case of the petitioner that the said acquittal was subsequently reversed. A perusal of FIR No.16 of 2016 dated 25.03.2016 on the file of the C.S. Puram Police Station, Prakasam District, which is placed on record along with writ petition as a material paper, shows that said Muppala Venkatanarasa Raju is not even shown as accused in the said crime. Therefore, in the absence of any conviction, as stipulated under Section 19(1)(e) of the Act, this Court does not find any merit in the case of the petitioner.

7. Accordingly, the writ petition is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V. SESA SAI, J

Date: 16.08.2017
TJMR