

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

W.P.No.27445 of 2017

ORDER:

Heard the learned counsel for petitioner Sri M.Vidyasagar, learned Government Pleader for Respondents 1, 3 and 4 and Smt.K.Lalitha, learned Standing Counsel for Respondent No.2-Temple.

2. An order passed by the Assistant Commissioner of Endowments, Guntur- 1st respondent herein vide proceedings L.Dis.No.B2/2254/17 dated 30.3.2017, cancelling the joint operation of cheque power given to the petitioner herein.

3. According to the petitioner, he is the member of the founder's family having been recognised by the competent authority in the year 1999 and the subject temple is classified under Section 6(b) of the Act and the competent authority to exercise jurisdiction on the subject temple is the Commissioner of Endowments-3rd respondent herein. It is further stated in the writ affidavit that the subject temple was constructed around 500 years back by the petitioner's forefathers and while constructing the subject temple, an extent of Ac.100.00 was endowed in favour of the institution.

4. The material available before this Court discloses that by virtue of proceedings Rc.No.A4/3562/99 dated 28.7.1999, the Deputy Commissioner of Endowments, Guntur permitted joint operation of S.B. Account No.2736 by the petitioner herein along with the Executive Officer of the subject temple. Now by virtue of the proceedings under challenge, the Assistant Commissioner of Endowments cancelled the same. The principal contentions advanced by the learned counsel for petitioner are:

- (1) The questioned order is in patent violation of principles of natural justice as it was not preceded by any notice or opportunity of hearing to the petitioner herein.
- (2) The Assistant Commissioner of Endowments has no power or jurisdiction to pass the order under challenge, cancelling the orders earlier passed by the Deputy Commissioner of Endowments.

5. A perusal of the questioned order dated 30.3.2017 discloses that the 1st respondent herein before resorting to impugned action, did not issue any show cause notice to the petitioner herein. In the considered opinion of this Court, the said exercise undertaken by the 1st respondent is patent violation of principles of natural justice and on this ground alone, the present writ petition is liable to be allowed, since it is a well settled proposition of law that any action on the part of the authorities, which has civil consequences must necessarily be preceded by a notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, the said principle is followed in breach.

6. For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the Assistant Commissioner of Endowments, Guntur-1st respondent herein vide proceedings L.Dis.No.B2/2254/17 dated 30.3.2017. However, it is open for the Respondent authorities to issue show cause notice to the petitioner herein, calling upon him to file explanation and to pass appropriate orders thereon, after giving notice and opportunity to the petitioner. It is further made clear that the petitioner is entitled to raise all the issues in support of his case. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 28.8.2017
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