

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT.JUSTICE T. RAJANI

Writ Appeal No.667 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri Ch. Dhanamjaya, learned counsel for the appellant and Sri S. Arifullah, learned Standing Counsel for the Wakf Board.

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 10566 of 2017 dated 24.3.2017. The appellant herein is the petitioner in the writ petition wherein he sought a mandamus to declare the proceedings dated 6.3.2017 as well as the appointment of the 4th respondent as the Enquiry Officer to go into the allegations as violative of the provisions of law, and in violation of principles of natural justice.

In the order under appeal, the learned Single Judge observed that the matter was placed before the Wakf Board which ordered that a regular enquiry be conducted, and appointed the Enquiry Officer invoking its statutory power under Section 64 of the Act; by way of the impugned notice, the Enquiry Officer had called upon the appellant to submit his explanation within fifteen days, while fixing the date of enquiry as 25.3.2017 in the office of the A.P. State Wakf Board; the impugned notice was a notice issued asking the appellant to submit his explanation; it was always open to the appellant to bring it to the notice of the Enquiry Officer all aspects, and he was not inclined to interfere with the matter at that stage. The writ petition was disposed of leaving it open to the appellant to respond to the impugned notice dated 6.3.2017, and holding that it was for the Enquiry Officer to consider the same in accordance with law.

Sri Ch. Dhanamjaya, learned counsel for the appellant, would submit that the appellant ought to have been afforded an opportunity of being heard even before the charges were framed against him; failure on the part of the respondents to provide him such an opportunity was in violation of principles

of natural justice; and the learned Single Judge had, therefore, erred in not interfering with the impugned proceedings.

We must express our inability to agree. The enquiry conducted before framing of the charges is preliminary in nature. It is only after charges are framed, and a charge memo is issued, can a regular departmental enquiry be held. The appellant would not only be entitled to submit his explanation to the charge memo, he would also be entitled to participate in the enquiry and put forth his defence. Framing of charges itself cannot be said to be in violation of principles of natural justice nor does the law require an opportunity of hearing being afforded to the delinquent before charges are framed against him. The learned Single Judge has, in our opinion rightly, observed that it was always open to the appellant to bring it to the notice of the Enquiry Officer all other aspects.

In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal. The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T. RAJANI, J)

2nd June, 2017

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