

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.33893 OF 2017

ORDER:

This writ petition is filed challenging the order in Rc.No.A1/1559/2017-Admn, dated 17-08-2017 insofar as directing the 3rd respondent to discontinue the services of the petitioner.

The case of the petitioner is that he was initially engaged by the Trustee of the 3rd respondent-temple as a Clerk, when the temple was not even registered under the Endowments Act and after the temple was taken by the Endowments Department, the respondent-authorities have not paid the salary to the petitioner saying that minimum period of five years is necessary to be taken into service of the Temple and continued to extract his services till 31-05-2017 without paying any emoluments. From June, 2007 onwards the respondent-temple used to pay an amount of Rs.1400/- per month by taking his signature on the Acquittance Register of the temple-staff. During the course of petitioner's services, his pay was enhanced from 1400 to Rs.2000/- per month (August, 2008) and further enhanced to Rs.4500/- per month (February,2011) and further enhanced to Rs.5500/- per month (October, 2012) and further enhanced to Rs.8,000/- (April, 2013) and finally enhanced to Rs.10,000/- per month (July, 2014). The 2nd respondent has issued impugned proceedings directing the 3rd respondent to discontinue the services of the petitioner and the 3rd respondent without issuing order

discontinued his services with effect from 16-09-2017 onwards. The petitioner was paid with consolidated pay of Rs.10,000/- up to June, 2017. From 1st July, 2017 onwards the 3rd respondent has not paid salary to the petitioner, though he worked till 16-09-2017. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that without following procedure under Section 37 of the Endowments Act, 1987 (for short “the Act”) in violation of principles of natural justice, impugned order is issued. He also submits that the 2nd respondent is not competent authority under Section 37 of the Act to remove the services of the petitioner. Under Section 37 of the Act it is only the 3rd respondent is competent to take action.

Counter affidavit is filed by the 3rd respondent. The sum and substance of the same is that the impugned order is only an administrative order passed by the 2nd respondent under Section 38 of the Act and the 3rd respondent has not even initiated any proceedings under Section 37 of the Act and the petitioner challenged the administrative order passed by the 2nd respondent, as such the writ petition is premature. It is also stated that the petitioner himself is not attending the temple since several days. Para-wise remarks of the 2nd respondent are placed before this Court, they also reiterate the same.

Heard learned Assistant Government Pleader for 2nd respondent and learned Standing Counsel for the 3rd respondent.

It is to be seen that under Section 38 of the Act, the 2nd respondent has power to issue directions and as contended by the respondents, the impugned order can be treated as only an administrative order Section 38 of the Act and even counter affidavit of 3rd respondent shows that they are yet to take action under Section 37 of the Act in pursuance to the impugned order. In view of the same, the writ petition is premature and by virtue of impugned order, the respondents cannot stop the petitioner from attending the duty.

Having regard to the above, the writ petition is disposed of with a direction to the 3rd respondent to permit the petitioner to continue in service subject to action being initiated under Section 37 of the Act.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

26-10-2017

Note:

Issue CC by Monday.

B/o.

Nvl



