

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

W.P.No.24579 of 2017

ORDER:

In the present writ petition, challenge is to the order passed by the 4th respondent-Assistant Commissioner and Executive Officer of the Temple vide proceedings Rc.No.A4/568/2017 dated 16.7.2017.

2. Heard Sri V.S.K.Rama Rao, learned counsel for the petitioner, learned Government Pleader for Endowments for Respondents 1 to 3 and Smt.K.Lalitha, learned Standing Counsel for 4th respondent-Temple, apart from perusing the material available before the Court.

3. The 4th respondent issued a tender notification bearing Rc.No.A4/568/2017-5 dated 4.3.2017, calling for tenders for the years 2017-18 for supply of provisions for the period from 1.4.2017 to 31.3.2018. The petitioner herein emerged as lowest tenderer. According to the petitioner, thereafter he started supplying the provisions to the 4th respondent Temple and in support thereof, the receipt dated 28.6.2017 has been placed on record by the petitioner along with writ petition as material paper.

4. By way of order under challenge, the 4th respondent cancelled the said tender. According to the learned counsel for petitioner, the impugned action of cancellation is highly illegal, arbitrary and is violative of Articles 14 and 19(1)(g) of the Constitution of India. It is further submitted by the learned counsel that earlier on 14.6.2017, the 4th respondent herein vide proceedings Rc.No.A5/596/2017 issued a show cause notice to the petitioner herein and the petitioner herein submitted explanation on 22.6.2017 and without considering the same, the 4th respondent herein passed the order under challenge.

5. On the contrary, it is submitted by the learned Standing Counsel for 4th respondent-Temple that there is no illegality nor there exists any procedural

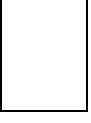
infirmity in the impugned action. It is further submitted by the learned Standing Counsel that the impugned action of the 4th respondent is in pursuance of the instructions issued by the Regional Joint Commissioner, Endowments Department. According to the learned counsel for the petitioner, the Regional Joint Commissioner, Endowments Department has no jurisdiction to issue any instructions in respect of the present lease.

6. The averment in the affidavit filed in support of the writ petition with regard to issuance of show cause notice dated 14.6.2017 and the submission of explanation for the same on 22.6.2017 by the petitioner herein is not disputed by the Respondents. Having issued a show cause notice and having received explanation on the said show cause notice, this Court finds no justification on the part of the 4th respondent in not considering the same before resorting to the impugned action. A perusal of the order under challenge discloses that the 4th respondent did neither refer to the earlier show cause notice nor the explanation offered by the petitioner to the same. The mode and manner in which the 4th respondent proceeded with the issue can neither be approved nor can be countenanced by this Court. Therefore, the impugned order dated 16.7.2017 cannot be sustained in the eye of law.

7. For the aforesaid reasons, the writ petition is allowed, setting aside the proceedings Rc.No.A4/568/2017 dated 16.7.2017 issued by the 4th respondent- Assistant Commissioner and Executive Officer of the Temple and it is open for the Respondents to proceed in accordance with law, after giving opportunity to the petitioner. 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: 16.8.2017
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