

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 32325 of 2011

ORDER:

1) The present writ petition came to be filed questioning the action of the authorities in issuing Family Members Certificate vide L.Prc.(D) 674/ 2010, dated 29.07.2010, in favour of the third respondent and not taking any steps for cancellation of the same, as illegal, arbitrary, un-constitutional; and consequently suspend the said family members certificate.

2) The grievance of the petitioner is that he made a representation dated 28.10.2011 to the Tahsildar, Machilipatnam, informing him that the third respondent obtained a family member certificate on 29.07.2010, as if he is the son of Mr.Gulam Ali and one Juma Begum (Jumabee) by furnishing a false certificate. Hence, seek suitable action against him.

3) Respondent Nos.1 and 2 filed counter denying the averments made in the affidavit filed in support of the writ petition. It is stated that on receipt of an application for grant of Family Member Certificate, a local enquiry was conducted and after ascertaining the facts, the family member certificate was issued. The enquiry conducted by the Mandal Revenue Officer in the locality where the deceased Gulami Ali used to reside, revealed that the deceased has one son and one daughter namely Mir Maheb Ali and Qurshid Begum, through his wife Juma Begum. It is

also stated that there is no illegality or irregularity in issuing the family member certificate.

4) Respondent No.3 also filed counter denying the averments made in the affidavit filed in support of the writ petition. It is stated that his father married to Jumma Begum. He is the eldest son of Late Gulam Ali and Jumma Begum. He has a sister by name Kursheed Begum. Himself and his sister Kursheed Begum are the only legal heirs of Mir Gulam Ali. It is also stated that his father, who expired on 03.05.2008, executed a Will dated 01.05.2001 bequeathing the hereditary rights of Mutavali of Bara-Imam-Panja, Machilipatnam. As per the directions of the A.P.State Wakf Board, he obtained Family Member Certificate from the office of the Tahsildar, Machilipatnam, by producing the ration card of the year 2005, identity card issued by Election Commission of India, Rajeev Arogyasri Health Card and passport issued by the Passport authority.

5) Learned counsel for the petitioner would submit that the third respondent made a claim for the post of Muthavali, stating that he is the son of late Mir Ghulam Ali and filed a family members certificate issued by the second respondent. He further submits that without conducting any enquiry, the said family members certificate was issued by the official respondents, as the said Mir Gulam Ali has not married anybody and died as a bachelor. The petitioner is the brother of said Mir Gulam Ali. He further submits that the documents filed by the third respondent

does not anywhere contain the photographs of the deceased showing that the third respondent is the son of Mir Gulam Ali. Basing on a fake and bogus documents, the family members certificate has been obtained by the third respondent. He further submits that the petitioner made a representation to cancel the certificate issued in favour of the third respondent and hence seeks a direction to the Tahsildar, to consider the said representation.

6) Learned counsel for the third respondent submits that the documents produced by him ie. Ration card, Rajeev Arogyasri and identity card clearly establish that he is the son of late Mir Gulam Ali. He further submits that the third respondent has no objection to pass orders on the representation made by the petitioner by conducting a fresh enquiry.

7) Without going into the merits of the case and also taking into consideration the concession made by the parties, the Tahsildar shall conduct fresh enquiry by taking into consideration the documents which are filed and which are to be filed, to find out as to whether the third respondent is the son of Mir Gulam Ali or not. After giving opportunity to all the concerned, the Tahsildar shall pass appropriate orders on the representation made by the petitioner, in accordance with law at the earliest. In case, the allegations made by the petitioner are proved to be false, the third respondent is always at liberty to initiate appropriate action against the petitioner, in accordance with law.

8) Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

01.08.2017

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