

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos. 14695 of 2015, 17179 of 2015 and
20454 of 2016

COMMON ORDER:

1) All the above writ petitions came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in issuing G.O.Ms.Nos.59 and 60, Revenue (Assignment-I) Department, dated 13.05.2015 as illegal, arbitrary and consequently direct the respondents to continue the petitioners as Chairman and Members of Bhodan Yagna Board constituted vide G.O.Ms.No.687, dated 14.12.2012 till the expiry of the terms of the office of four years.

2) Since all the writ petitions are inter-connected the following common order is passed.

3) In exercise of power under Sections 3 and 4 of the Andhra Pradesh Bhoodan and Gramdan Act, 1965 (for short "the Act"), the composite State of Andhra Pradesh issued G.O.Ms.No.687, dated 14.12.2012, reconstituting the Board and appointing the Chairman and its members for a period of four years. After the bifurcation of the composite state and formation of State of Telangana, the Government of Telangana issued G.O.Ms.No.11 dated 05.07.2014 adopting the Act and also appointing the Principal Secretary, Revenue Department to discharge the functions of the Board under Section 9 (4) of the Act. Challenging the same, W.P.No.18833 of 2014 came to be filed.

After filing counter, a learned Single Judge of this Court suspended the said G.O. and directed the respondents to restore files to the Board. Aggrieved by the same, the respondents therein preferred W.A.(SR) No.30488 of 2015 and 46879 of 2015. By an order dated 29.04.2015, this Court held as under:

“The appointment of a Special Officer can be made as an interim measure during the interregnum between the dissolution and reconstitution of the Board. However, the existing Board has not been dissolved at all. The appointment of the Special Officer, after adaptation of the Act of 1965 without any alteration and amendment thereto, is therefore contrary to law.

We therefore, set aside the G.O. only in relation to the appointment of the Special Officer.

The learned Advocate General appearing for the State of Telangana submits that the State is planning to dissolve the existing Board and reconstitute the same.

It is for the Government to take a decision on this issue. We cannot say anything in this regard. All that we can say is that the existing Board will continue because of the adaptation until and unless it is dissolved in accordance with law. After dissolution of the Board, obviously appointment of a Special Officer is permissible.

Having regard to the facts and circumstances and also in view of the fact that there is a large extent of Bhoodan land which is very valuable and mostly

situated in the State of Telangana, and when the State has reported its intention not to allow the existing Board to function, we think that till a decision is taken for dissolution of the Board, the existing Board will continue but the said board shall not take any policy decision or deal with the land and shall limit itself to routine administrative decisions. If no decision is taken by State of Telangana as informed above within fortnight from date, the existing Board until lawful dissolution will function normally in accordance with law.”

4) Thereafter, the first respondent issued a show-cause notice dated 05.05.2015 calling upon the Chairman and its Members to explain as to why the Andhra Pradesh Bhoodan Yagna Board (hereinafter referred to as “Board”) which was constituted vide G.O.Ms.No.687, dated 14.12.2012 should not be dissolved. Detailed explanations came to be submitted contending that the show-cause notice is illegal and devoid of any particulars. On 13.05.2015, the Government of Telangana issued G.O.Ms.Nos.59 and 60 dissolving the Board, and appointing the Principal Secretary as authority to exercise the powers and discharge the duties of the Board under Section 9 (4) of the Act. These two G.O.s are subject matter of challenge in the present writ petitions.

5) A counter came to be filed disputing the averments made in the affidavit filed in support of the writ petitions. It is stated that the appointment of petitioners as Chairman and Members of the Board was made basing on the letter dated 25.07.2012

issued by one Dr.Veena Behan, President of Mahila Chetana Kendra, Delhi, but the said letter is found to be forged and fabricated. Subsequently Sarva Seva Sangh is said to have written a letter to Dr.Veena Behan, requesting her to clarify as to whether she is a nominee of Acharya Vinobha Bhave. In her reply dated 21.03.2014, Dr.Veena Behan is said to have stated that she has not acted/ assigned/ represented herself as nominee of late Sri Acharya Vinobha Bhave in her life time for any kind of function to act. It is thus urged that in view of the fake letter, which has been produced while seeking appointment, the Government was left with no other option except to dissolve the Board constituted under G.O.Ms.No.687. It is further stated that in view of the division of the composite state of Andhra Pradesh, the Government of Telangana appointed the Principal Secretary, Revenue Department as authority to exercise powers and discharge the duties of the Board under Section 9 (4) of the Act. Since the action of the Government in appointing the Principal Secretary to look after the affairs of the Board was challenged before this Court, the argument of the counsel with regard to power of the Government to dissolve the Board cannot be accepted.

6) Learned counsel for the petitioners mainly submits that the action of the authorities in issuing the said G.O.s is a colourable exercise of power, tainted with malafides. It is further urged that the notice dated 05.05.2015 is vitiated for the reason that it came to be issued as if the Court directed the

Government to dissolve the Board, which is incorrect. It is also submitted by the learned Senior Counsel that the grounds on which the dissolution is proposed should be specifically enumerated in the show-cause notice and the dissolution is not in consonance with the show-cause notice. It is urged that except repeating the language of Section 9 (1) (b) of the Act, no reasons are recorded to conclude that the Board is unable to discharge its duties. It is contended that the colourable exercise of power is glaring for the reason that the impugned government orders came to be issued in hurried manner since the earlier order of dissolution was set aside by this court. As principles of natural justice are violated, learned counsel for the petitioners would submit that the impugned government orders are liable to be quashed. It is also urged that the details of the cases have not been given and there is no basis to show that the petitioners have produced a letter dated 25.07.2012 wherein the petitioners and other members were directed to be nominated by one Dr. Veena Behan, President of Mahila Chetana Kendra, Delhi. He relied upon the following judgments of the Supreme Court, in support of his plea:-

1) *Pushpagiri Mutt v. Indiramma*¹

2) *Hukam Chand Shyam Lal v. Union of India and others*²

¹ AIR 2003 (AP) 379

² (1976) 2 SCC 128

3) *State of Punjab and another v. Gurdial Singh and others*³

7) Special Government Pleader for Revenue representing Advocate-General would submit that the allegation of violation of principles of natural justice is absolutely without basis. It is his case that notices were given to each individual member and only after receiving explanations, the impugned orders came to be issued.

8) In response to the argument of the petitioners that the impugned show-cause notice came to be issued pursuant to the order of the High Court, learned counsel for the respondents would submit that show-cause notice came to be issued in exercise of power conferred under the Act and not in terms of the order of the High Court. The counsel representing Advocate-General would further submit that one cannot plead ignorance of the letter dated 25.07.2012 since there is a reference to the same in G.O.Ms.No.687 itself. Explaining Sections 7 and 9 of the Act, learned counsel for the respondents submits that to dissolve the Board the power under Section 9 of the Act has to be exercised, where as the same is not necessary for taking action against an independent member. Basing on these allegations, learned counsel for the respondents would submit that there is nothing illegal or improper in dissolving the Board.

³ (1980) 2 SCC 471

9) The admitted facts of the case are that on 14.12.2012, the composite State of Andhra Pradesh issued G.O.Ms.No.687, dated 14.12.2012 reconstituting the Board and appointing the petitioners, in these three writ petitions,, as Chairman and Members of the Board. After bifurcation of the composite state and formation of State of Telangana, the first respondent issued G.O.Ms.No.11, appointing the Principal Secretary, Revenue Department, as authority to discharge the functions of the Board under Section 9 (4) of the Act. The same was challenged before this Court. Initially a learned Single Judge of this Court stayed the proceedings but however a Division Bench of this Court in Writ Appeal (SR) Nos.30488 and 46879 of 2015 held that existing board shall continue but the said Board shall not take any policy decision or deal with the land and shall limit itself to routine administrative decisions. It was further held that if no decision is taken by the State within fortnight from date, the existing Board, until lawful dissolution will function normally in accordance with law. The said order came to be passed by a Division Bench on 29.04.2015. A week thereafter ie. On 05.05.2015 a show-cause notice came to be issued by the Principal Secretary directing the Chairman and Board to explain as to why action should not be taken to dissolve the Board for the State of Telangana which was constituted vide G.O.Ms.No.687. Explanations came to be submitted on 11.05.2015. After considering the same, the impugned government orders came to be issued.

10) In order to appreciate the rival submissions referred to above, it would be useful to refer to the contents of the G.O.Ms.No.59, dated 13.05.2015. Para No.2 of the notification deals with the constitution of the Board. It states that after the death of Sri Acharya Vinobha Bave, the power of nomination was entrusted to Sarva Seva Sangh as nominee of Sri Acharya Vinobha Bave for constitution of the Board. It is said that there was no consultation by the Government of Andhra Pradesh with Sarva Seva Sangh before constituting the Board. Para No.3 of the said notification refers to the letter dated 25.07.2012, wherein the Chairman and Members of the Board were nominated by Dr.Veena Behan, which lead to issuance of G.O.Ms.No.687. Subsequently on 21.03.2014 Dr.Veena Behan is said to have informed the State Government that she has not acted/ assigned/ represented herself as nominee of Sri Acharya Vinobha Bave. The contents in the said G.O. also refer to alienation of high valuable lands to in-eligible persons and institutions contrary to the provisions of the Act. The said G.O. also refers to the explanation submitted by the Chairman and Members of the Board and consideration of the same by the Government in the light of the material available on record.

11) Having regard to the manner in which the petitioners became Chairman and Members of the Board, who are alleged to have misappropriated/ misutilized the properties of the Board and the alleged fraud said to have been played in producing the

forged letter of Dr. Veena Behan, the impugned order came to be issued.

12) Section 3 of the Act deals with Constitution of the Board. Section 4 of the Act deals with the composition of the Board, which shall be done in consultation with Sri Acharya Vinobha Bave or a person nominated by him. Section 7 of the Act deals with removal of Chairman or other members.

13) Section 7 of the Act reads as under:

“7 (1) The Government may, by order, remove the Chairman, Vice Chairman or any other member of the Board after giving him an opportunity to make any representation which he may wish to make, if they are satisfied that he-

- (a) has become of unsoundmind:
- (b) has applied to be adjudicated or has been adjudicated an insolvent;
- (c) has been sentenced by a criminal court for an offence involving moral turpitude, such sentence not having been reversed:
- (d) has become incapable of acting as Chairman, Vice-Chairman or member or has so abused his position of powers vested in him as Chairman, Vice Chairman or member: or
- (e) has failed, without excuse sufficient in the opinion of the Board, to attend three consecutive meetings of the Board and the Board has recommended his removal.

(2) Every order of removal under sub-section (1) shall, as soon as possible after it is made, be published in the Andhra Pradesh Gazette.”

14) Section 9 deals with dissolution of the Board and reconstitution of the Board. It would be useful to refer to Section 9 of the Act, which is as under:

“9 (1) Where the Government are satisfied that

a) The board has failed without reasonable cause or excuse to discharge the duties, or to perform the functions, imposed on, or assigned to, it by or under this Act or has exceeded or abused powers: or

(b) Circumstances have arisen in which the Board is, or may, be, unable to discharge the duties, or to perform the functions, imposed on, or assigned to, it by or under this Act; or

(c) It is otherwise expedient so to do

They may, by notification in the Andhra Pradesh Gazette direct that the Board be dissolved with effect from a specified date and reconstitute under section 3 either immediately or within six months from the date of dissolution.

(2) Before directing the dissolution of the Board under sub-section (1), the Government shall communicate to the Board the grounds on which they propose to do so, fix

a reasonable period for the Board to show-cause against the proposal and consider its explanation and objections, if any.

(3) On the date fixed for the dissolution of the Board under sub-section (1), all its members including the Chairman and Vice-Chairman shall be deemed to have vacated their offices.

(4) During the interval, if any, between the dissolution and the reconstitution of the Board the Government may, by order appoint any officer or authority to exercise the powers and discharge the duties of the Board, subject to such restrictions and limitations as may be specified in the order.

(5) Where the Board is dissolved under this section, the Government, until the date of the reconstitution thereof, and the reconstituted Board thereafter, shall be entitled to all the assets and be subject to all the liabilities of the Board.”

15) As stated earlier, the arguments which were advanced by the counsel for the petitioners are mainly three folds. (1) the dissolution of the Board being not in consonance with Section 9 of the Act, (2) issuance of G.O. dissolving the Board was a colourable exercise of power done with a malafide intention and (3) violation of principles of natural justice ie. not giving an

opportunity to the petitioners to explain about the letter written by Dr. Veena Behan.

16) Insofar as violation of principle of natural justice is concerned, the show-cause notice which was issued by the Principal Secretary on 05.05.2015 calling upon the petitioners to explain as to why the Board should not be dissolved, refers to production of a letter alleged to have been issued by Dr. Veena Behan nominating the petitioners as Chairman and members of the Board, which is now said to be fake and forged basing on the letter dated 21.03.2014 written by Dr. Veena Behan to the State Government denying herself as nominee of Sri Acharya Vinobha Bave. The show-cause notice also refers to alienation of huge valuable lands to in-eligible persons and institutions contrary to the provisions of the Act, which caused great loss to the Board.

17) Explanation to the said show-cause notice came to be submitted on 07.05.2015 by the Chairman and other members. In the said reply there is a denial to the production of letter dated 27.05.2012 said to have been issued by Dr. Veena Behan, President of Mahila Chetana Kendra. It was also stated in the reply that the appointing authority got the necessary inputs before issuing G.O.Ms.No.687. The allegation of alienation of valuable lands to in-eligible persons and institutions was also denied in the reply. It is said that the allegations made in the show-cause notice are quite vague without any complete details. It is further stated that the show-cause notice does not

refer to any grounds falling under Section 9 (1) of the Act and the same is arbitrary and illegal.

18) After considering the explanations to the show-cause notice, the impugned notifications came to be issued. Therefore, the argument of the counsel that the petitioners were not given any opportunity to explain about the letter written by Dr.Veena Behan cannot be accepted. It is to be noted that, basing on the letter given by one Ch. Gopal Rao, informing about the fabrication of the said letter, an enquiry was conducted. During the enquiry it has come to light the President of Sarva Seva Sangh in his letter dated 21.05.2014 addressed to the Chief Secretary, Government of Andhra Pradesh, has stated that Acharya Vinobha Bhave has appointed Sarva Seva Sangh as his nominee for consultation of the State Government for appointment of Bhoodan Board. Sarva Seva Sangh has written a letter dated 20.02.2014 to Dr.Veena Behan, requesting her to clarify as to whether she is the nominee of Acharya Vinobha Bhave. In reply to the said letter, Dr.Veena Behan in her letter dated 21.03.2014 has stated that she has not acted/ assigned/ represented herself as nominee of late Sri Acharya Vinobha Bhave.

19) All these circumstances and letters were made part of the show-cause wherein petitioners were asked to explain about the production of the letter by them, which was denied by the petitioners in their reply to the show-cause notice. It is also to be noted that the petitioners cannot plead ignorance of the

letter dated 25.07.2012 since there is a reference to it even in G.O.Ms.No.687 which formed the basis for constitution of the Board. If the said letter which has been made the basis for appointment of the writ petitioners is now refuted, nothing prevented the petitioners from raising an objection about the said letter in the year 2012 itself. Therefore, denial of contents of the letter, at this stage cannot be accepted, more so, when the said letter was made the basis for issuance of G.O.Ms.No.687 in the year 2012 itself and which fact was known to the petitioners.

20) In view of the above, the judgments relied upon by the learned counsel for the petitioners would not apply to the facts of the case on hand.

21) Coming to the next aspect of the matter as to whether dissolution of the Board was in conformity with the statute or the show-cause notice.

22) As stated above, the learned counsel for the petitioners mainly urged that there is no basis to say that the Board failed to discharge its duties or failed to perform the functions assigned to it or the existence of circumstances by which the Board was not able to discharge the duties or perform the functions imposed or assigned to it under the Act. It is urged that the show-cause notice issued to the petitioners does not anywhere refer to the same.

23) A reading of the impugned notifications does not anywhere indicate that the Board was unable to discharge the duties as required in clause (a) and (b) of Section 9 of the Act or the circumstances under which the Board was unable to discharge its duties or perform the functions. But however, the show-cause notice as well as the impugned notifications refer to the alienation of the properties by the Board in an un-lawful manner. It may be true that the show-cause is silent with regard to the cases registered against the petitioners, but the counter which has been filed by the Government show criminal cases being registered against the Chairman and Members of the Board, who are the petitioners herein. The said fact is not disputed by the learned counsel for the petitioners. On the other hand, during hearing of the writ petitions, it was brought to the notice of the Court that the Chairman of the Board (petitioner in W.P.No 14695 of 2015) was arrested and subsequently released on bail. Such being the position, the question would be whether the respondents were justified in dissolving the Board under clause (c) of Section 9.

24) Though an argument was sought to be advanced that clause (c) of Section 9 of the Act has to be read with clauses (a) and (b) of Section 9, I am afraid the same cannot be accepted. Clause (c) of Section 9 of the Act is independent by itself. The expression "it is otherwise expedient to do" has to be understood so as to advance the object of the Act ensuring that the lands which were entrusted/ vested with the Board are to be

protected and disposed of in accordance with the mandate of the Act. The said expression came up for consideration before Madras High Court in *Lenovo India (P) Limited v. The State rep. by Inspector of Police*⁴ wherein the Court while dealing with the Section 451 Cr.P.C. observed that pending an enquiry or trial and if the property is subject to speedy and natural decay or if it is otherwise expedient to do so, the Court may order it to be sold. While dealing with the said aspect the Court further held that two important things which are to be kept in mind are the interest of the owner and the interest of the prosecution in presenting the required physical evidence before the Court.

25) Similarly in *M/s. Ace International and another vs. The State of Maharashtra*⁵ while dealing with Section 6-A of the Essential Commodities Act, the Bombay High Court observed as under:

“The other expression, “it is otherwise expedient in the public interest” has also to be understood so as to advance the legislative objective of ensuring that the goods do not suffer either in quality or quantity. For instance, fertilizer may not be susceptible to speedy and natural decay but it is expedient in public interest to ensure that it is either sold to the agriculturist or disposed of at least before the next season.”

26) From the two judgments referred to above and a plain reading of Section 9 (c) of the Act, it is very clear that the said

⁴ Laws(Mad) 2013(11) 78

⁵ AIR (BOMR) 2013(5) 919

clause is independent by itself and it can be invoked to achieve the object of the Act.

27) Though the show-cause notice is not specific with regard to crimes against the petitioners, but there is a clear averment in the show-cause notice as well as in the impugned notifications that valuable lands were being allotted to ineligible persons and institutions. The allegations are as under:

- a) Allotment of land to an extent of Ac.100.00 gts., in Sy.No.58/ p situated in Ibrahimpatnam Village (Saidabad Kancha) and Ac.44.26 gts., in Sy.Nos. 2/ 4, 2/ 36, 2/ 88 and 58/ p of Ibrahimpatnam Village and Mandal, Ranga Reddy District, in violation of the Act.
- b) The Chairman sold out land admeasuring Ac.50.00 gts., in Sy.No.58/ p situated at Ibrahimpatnam Village (Saidabad Kancha) of Ibrahimpatnam Mandal, Ranga Reddy District to Sri Maheswaram Ambadad and four others vide registered document No.3961/ 2008, dated 12.06.2008.
- c) Leasing out of land an extent of Ac.35.00 gts., in Sy.No.58/ 69 to M/ s. S.V.S.Raithu Dairy, a registered partnership firm bearing No.113/ 09, dated 24.09.2008.
- d) The Chairman also leased out land admeasuring Ac.15.00 gts., in Sy.No.58/ p situated in Ibrahimpatnam Village and Mandal, Ranga Reddy District, to M/ s. Gopal Goshala Trust, represented by its Managing Trustee for a period of 28 years vide document No.225/ 2010, dated 19.01.2010.

e) Illegal sale of house plots in Sy.NO.319 in Batasingaram Village, Hayatnagar Mandal, Ranga Reddy District and also allotted land to an extent of Ac.16.32 gts., towards house sites without obtaining any enquiry report or eligibility list from Local Tahsildar.

f) Allotment of land to an extent of Ac.32.24 gts., in Sy.Nos.1 to 7 of Palamakula Village, Samshabad Mandal, Ranga Reddy District on 12.12.2013 to seven persons without verifying landless poor status/eligibility status of the applicants in violation of the Act.

g) A criminal case under Section 420 IPC and 468 IPC was registered against the Chairman and members of the Board alleging about the various irregularities by indulging in gross misconduct, mismanagement and misappropriation of valuable properties of the Board. The said case is under investigation by C.I.D. Telangana.

28) In fact the Chairman, Task Force on Land, Government of Telangana, inquired into the allegations relating to allotment of Bhoodan lands to the Vinobha Nagar Development Society by Sri G.Pajendra Reddy (Chairman) and submitted a report on 27.01.2015 holding that the allegations are proved. Accordingly, the Government vide Memo No.3881/ Assn.I(1)/ 2015, dated 10.03.2015, instructing the District Collector, Ranga Reddy to take action on the recommendations made by the Chairman, Task Force on land and also requested to initiate criminal action against the said persons. In compliance with the instructions of the

Government, the District Collector, Ranga Reddy, initiated disciplinary proceedings against the then Tahsildar, Ibrahimpatnam and also filed complaint before the Additional Director General, CBCID, T.S., Hyderabad, for taking action against the Chairman and members of the Board alleging the fraud committed by them in allotment of Bhoodan land to an extent of Ac.145.00 situated in Ibrahimpatnam, Ranga Reddy District.

29) In view of the allegation that the properties which were entrusted to the Board are being alienated to in-eligible persons, the action of Government in invoking Section 9 (c) of the Act, while dissolving the Board, cannot be found fault with.

30) For the aforesaid reasons, this Court is of the view that there are no merits in the writ petitions and all the writ petitions are accordingly dismissed. There shall be no order as to costs.

31) Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

JUSTICE C. PRAVEEN KUMAR

06.01.2017

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