

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4045 OF 2017

ORDER:

The writ petition is filed questioning the notification issued by the 4th respondent which was published in the news paper on 25.01.2017, calling for the applications for trustee ship under Section 15 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 30/1987 (for short, "the Act").

The petitioner claims himself to be the founder family member of the 5th respondent temple. Petitioner submits that he had filed O.A.No.666 of 2014, before the A.P. State Endowments Tribunal, Hyderabad under Section 87(1)(h) of the Act, seeking himself to be declared as a Founder Trustee of Sri Eswara Markendaya Devasthanam, Sadasivpet, Medak District and the same is pending adjudication.

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowment (T.S).

While things stood thus, petitioner came across a news item dated 25.01.2017, published in Eenadu local daily, wherein the petitioner came to be aware of the proposal of appointing a Trust Board for the 5th respondent temple. According to the petitioner, the said news item was issued by the Assistant Commissioner, Endowment Department and the Assistant Commissioner, is not the designated authority and competent to issue a paper news item. It is the further contention of the learned counsel for the petitioner that under the relevant rules, the notification can be issued only by the Deputy Commissioner

who is the competent authority and further there has to be a wide publicity to be issued in news papers. Thus, he seeks stay of all further proceedings in the writ petition. Learned counsel for the petitioner reiterated the contents in the writ affidavit.

Learned Government Pleader for the Endowment while opposing the writ petition, draws the specific attention of this Court to the Appointment of Trustees Rules, 1987 (for short, “the Rules”) in particular Rule 4 of the Rules would submit that there is a strict compliance of the rules and in the present case, the 5th respondent temple is only a 6(c)ii temple whose income is below Rs.2,00,000/-.

Learned counsel for the petitioner would also submit that a careful reading of the rules in particular proviso to Rule 4(2) of the Rules, discloses that it is not mandatory for issuance of a notification in news papers and the same will only be discriminatory that too in a cases where there is a sufficient income available with respect to the institution and not in all cases.

The only legal question which is required to be considered as to whether there is a paper publication is mandatory?

A reading of Rule 4 of the Rules wherein in the proviso the word “may” having been used does not mandatory for issuing of a notification in news paper as it is well known that an advertisement in news papers would always cost enormous. Considering the fact that the 5th respondent temple is 6(c)ii temple with meagre amount and in the facts and circumstances of the case, it cannot be said that the issuance of the news item

in the news paper is any thing wrong. Further ground which has been raised by the learned counsel for the petitioner that the Assistant Commissioner is the one who has issued the notification is not factually correct. Even from the papers filed by the petitioner wherein in Form-I, the Deputy Commissioner had signed on 17.01.2017. That being the factual position, it cannot be said that the Assistant Commissioner has issued the notification. Probably what is reported in the news paper is only a news item and the same cannot be taken as a notification which is required to be issued in proviso to Rule 4 of the Rules. In those circumstances, the writ petition does not deserves for consideration and the same is liable to be dismissed. However, it is made clear that pursuant to the notification issued, petitioner shall also be entitled to make the application for consideration of his candidature for appointment of a Trustee and the same shall be considered by the respondents in accordance with law.

Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous Petitions, if any, in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:02.03.2017,
Gk.

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM



Gk