

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.35283 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned standing counsel for the second respondent.

The petitioner was appointed as Muthawali to the Dargah Hazrath Khaja Syed Mohammed Ghulam Rasool Nayab Saheb Qibla Chisty Khalandari Mirzai, by proceedings dated 26.05.2017 for a period of three years under Section 63 of the Wakf Act, 1995, by the second respondent. The said Dargah was notified wakf institution published in the Gazette dated 23.02.1989. The original Muthawali was none other than the grandfather of the petitioner. Thereafter, the father of the petitioner was appointed as Muthawali and he expired on 31.01.2006. On the application of the petitioner, the petitioner was appointed as Muthawali. Challenging the appointment of the petitioner, some third parties filed W.P.No.19491 of 2017 and this Court, by order dated 10.08.2017, dismissed the said writ petition. However, they filed O.A.Nos.13 and 14 of 2017 and they are pending. When the impugned order was passed on 17.10.2017 taking the wakf institution under direct management without issuing notice to the petitioner, the present writ petition is filed.

When the matter was taken up for hearing on 24.10.2017, the learned standing counsel for the second respondent was directed to get instructions with regard to the observance of principles of natural justice. He fairly submits that no notice was issued to the petitioner.

In the circumstances, this Court is constrained to set aside the impugned order dated 17.10.2017 and the writ petition is accordingly allowed. However, this will not prevent the second respondent from taking appropriate action in accordance with law.

Consequently, miscellaneous petitions, if any pending, in the writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

27.10.2017
pln

