

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.36230 of 2017

ORDER:

This writ petition under Article 226 of the Constitution of India is filed by the petitioner seeking the following relief:

“For the reasons mentioned in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue appropriate writ or order or direction preferably one in the nature of Writ of Mandamus declaring action of Respondent No.2 in appointing Respondent No.4 as Executive Officer of the petitioner's temple on the advice of Respondent No.3 without there being any Notice or opportunity, when at a time, the 1st respondent is examining the extension of the exemption as illegal, void and against to the provisions of the Endowments Act and consequently set aside the Orders issued by the 2nd respondent in Rc.No.E1/801794/2017, dated: 25.10.2017 and the consequential orders issued by the 4th respondent in Rc.No. A1/7324/2017-1, dated: 28.10.2017 and further direct the 1st Respondent to pass appropriate orders on the application filed by the Petitioner's temple dated:26.08.2017 and pass such other order or further order or orders as deems fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri N. Guru Gopal, learned counsel for the petitioner and Smt. K. Lalitha, learned Standing Counsel appearing for the fourth respondent, who is stated to be the Executive Officer of the subject temple.

3. I have perused material record.

4. The submissions of the learned counsel for the petitioner and the case of the petitioner, in brief, are as follows:

The subject temple viz., Kalimatha Ammavari Devasthanam, Vijayawada, was exempted from the operation of the provisions of Sections 15 and 29 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'Act 30 of 1987') in exercise of the powers conferred on the authority under Section 154 of Act 30 of 1987 initially for a period of three years *vide* Government Order

dated 24.09.2003. Subsequently, the exemption was extended by another Government Order dated 29.12.2006 for a further period of three years. Even prior to the expiry of the three years, the petitioner made a representation on 28.07.2009 for extension of the exemption for further period and while the said representation is pending, an order was passed in September, 2009 keeping the Assistant Commissioner of Endowments as In-charge Executive Officer of the subject temple and consequential orders for taking charge and management of the temple were also passed. Aggrieved by the same, the petitioner filed W.P.No.26009 of 2009 before this Court and the said writ petition was allowed by order dated 01.12.2009. Subsequently also, extensions of exemption were granted to the petitioner and the exemption granted *vide* G.O.Ms.No.1638, Revenue (Endowments-IV) Department, dated 21.11.2012 for a period of five years w.e.f. 24.09.2012 expired by 23.09.2017. Even before the expiry of the said period of extension, the petitioner made a representation dated 26.08.2017. While the said representation is pending, the impugned proceedings dated 25.10.2017 were issued by the Commissioner, Endowments Department, appointing the fourth respondent – Assistant Commissioner of Endowments as Executive Officer on full additional charge of the subject temple and requesting the Secretary of the subject temple to handover the complete charge of the institution to the said Assistant Commissioner of Endowments. Aggrieved thereby, the present writ petition is filed to give a direction to the Government/first respondent to consider and pass appropriate orders on the said representation of the petitioner and consequently set aside the order dated 25.10.2017 of the Commissioner of Endowments/the second respondent.

5. The learned Standing Counsel appearing for the fourth respondent would submit that the impugned order dated 25.10.2017 is a reasoned order and that the circumstances which led to the passing of said order are also stated in the said order and hence, the impugned order is sustainable. However, she fairly stated that the representation of the petitioner is not yet been disposed of by the Government and it is still pending.

6. Having regard to the submissions, this Court is of the considered view that the writ petition can be disposed of with appropriate directions.

7. Accordingly, the writ petition is disposed of with the following directions:

- i. The first respondent shall consider and dispose of the representation dated 26.08.2017 by passing an appropriate reasoned order within 15 days from the date of receipt of a copy of this order and communicate a copy of such order to the petitioner within a week thereafter.
- ii. Till such exercise as stated supra is completed by the first respondent, the order passed by the second respondent in Rc.No.E1/801794/2017, dated: 25.10.2017 shall remain in abeyance.

Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

Date: 31.10.2017
 Note: Issue CC in two days
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