

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL NO.415 OF 2018

JUDGMENT: (per SK,J)

The third and fourth respondents in W.P.No.40833 of 2017 are in appeal aggrieved by the order dated 05.12.2017 passed by a learned Judge of this Court in W.P.M.P.No.50696 of 2017 filed in the said writ petition, whereby the learned Judge granted interim suspension of the proceedings dated 08.09.2017 issued by the Telangana State Wakf Board. By the said proceedings, the Wakf Board appointed an enquiry officer to conduct a detailed enquiry against Mahmood Asadullah Siddiqui, the Mutawali of Darga Hazarath Abdul Quadeer Siddiqui, a notified wakf institution. The learned Judge was of the opinion that as the Wakf Board had earlier filed a counter in W.P.No.10492 of 2015, which was filed by the appellants herein, supporting the appointment of Mahmood Asadullah Siddiqui as the Muthawalli of the subject wakf institution, it was estopped from initiating an enquiry against him at this stage.

We are informed that this enquiry was initiated at the behest of a Member of Parliament, who is an elected member of the Wakf Board, who alleged that the appointment of Mahmood Asadullah Siddiqui as the Mutawalli was secured on the strength of fabricated and manipulated documents bearing forged signatures. It appears that the appellants before us also filed a complaint on the same lines.

However, Sri M.A.Mujeeb, learned standing counsel for the Wakf Board, would state that neither of the complaints aforestated were in keeping with Section 70 of the Wakf Act, 1995 (for short, 'the Act of 1995'), which requires a properly instituted complaint to be supported by

an affidavit, whereupon the Wakf Board would be entitled to initiate an enquiry in relation to the administration of any wakf.

Given the aforestated facts, we are of the opinion that mere filing of a counter-affidavit taking a particular stand would not pre-empt the Wakf Board from changing its stand; all the more so, when allegations of fraud and forgery are levelled against the person who had the support of the Wakf Board earlier. It would always be open to the Wakf Board to entertain complaints under Section 70 of the Act of 1995 and if it is satisfied that sufficient grounds are made out to institute an enquiry, it would be well within its power to do so notwithstanding the fact that it was led to support a particular person or organisation in the earlier instance.

We therefore set aside the order under appeal and leave it open to the Telangana State Wakf Board to take appropriate action under Section 70 of the Act of 1995, if and when a proper complaint is made and the Board is satisfied that the same warrants an enquiry.

The writ appeal is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

Date:20.03.2018

GJ