HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.3584 of 2018

ORDER:

The writ petitioner is M.Narsimha and among the 3 respondents, respondent No.1 is the State of Telangana rep. by its Principal Secretary, Endowments Department, respondent No.2 is the Commissioner, Endowments Department, Hyderabad and the 3rd respondent is Sri Gattu Maisamma Ammavari Temple, Ghatkesar Mandal, Medchal District represented by its Executive Officer.

2. The prayer in the writ petition reads as follows:

> "......to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings dated 11-12-2017 in Proc. in D.Dis.No.A2/9075/2017 passed by the respondent No.2 appointing the Executive Officer to the respondent No.3 temple and assuming the charge by the Executive Officer on 20-12-2017 in pursuance of the orders 11-12-2017 is illegal and arbitrary, unjust and violation of Sec 29 of the Telangana Charitable and Hindu Religious Institutions and Endowments Act 30/87 and the Circular dated 7-9-2010 besides of principles of natural justice and consequently set-aside the same by directing the respondents to restore the administration of the respondent No.3 temple to the petitioner and their community people and pass such other order or orders........."

3. The supporting affidavit averments of the writ petition are that the petitioner belong to Yadava Community and some of the family of Yadava community people are the protected tenants of the land covered by Sy.No.543 admeasuring Ac.228.23 gts., situated at Ghatkesar village and Mandal, Ranga Reddy District. The petitioner submits that the original pattedars of the said land

was Smt. Nazeemunnisa Begum W/o. Jainuluddin. The Sub-Collector Hyderabad East Division was pleased to grant patta certificate under sec. 38(6) of A.P. (Telangana Area) Tenancy and Agricultural Lands Act vide Certificate No.H/1430/67 dated 17-04-1967 and issued patta certificate by fixing the consideration of Rs.2500/- to be paid to the said pattedar and having paid the same, the Sub-Collector issued the said certificate under Form-VI under P.T. Act and the petitioner's father is one of the person who obtained the said certificate and his name is shown in the said certificate.

4. It is submitted that after granting of Section 38(6) certificate by the Sub-Collector to 15 members who were the protected tenants of the said land, the revenue authorities have mutated their names in the revenue records as pattedars and possessors of the said land and said survey Numbers were sub-divided by the revenue authorities. The Yadava community people being ardent devotees of Sri Maisamma have constructed the temple and developed the same with their own funds and use to worship the same by performing poojas during the agriculture season and said temple is existing in Sy.No.543/8 which is their patta land and does not belong to any one. It is further submitted that respondent No.3 temple was constructed and developed by making contribution amongst the pattedars of the land covered by S.No.543 and also Yadava community people of Ghatkesar village. The temple was managed by the petitioner's community people by making contribution from their community since its inception and they also used to perform Annual jatara on 1st Sunday, after Sankranthi every year and other festivals

regularly without any complaint with their own funds and without collecting any donations or contributions from the public or other community as the temple was situated in their own patta lands for the last several decades. They contributed funds out of their hard earnings with sentiment as it was in existence from their forefathers and the income of the temple for every year is less than Rs.2.00 lakhs and that it is not having any other properties except the temple premises. They also formed a Trust by executing Trust Deed in the year 2000 for the effective administration of the temple. They have been performing annual festivities regularly and also performing daily poojas.

5. It is also submitted that on 20-12-2017, the Executive officer (E.O.) came to the respondent No.3 temple with police aid without issuing any notice to them and dispossessed them from respondent No.3 temple. The Petitioner submitted that the E.O. with the threatening of police and revenue officials took over the management and also did not furnish the impugned order to them when asked. With no other alternative available, the petitioner went to the office of the respondent No.2 to furnish the copy of order passed by him appointing E.O. to the respondent No.3 temple, but the respondent No.2 on one pretext or the other postponed the furnishing of the copies. The Petitioner submits that the Asst. Commissioner, Ranga Reddy Dist., did not furnish the copy despite copy is referred as if being marked to them. At last the Xerox copy of the impugned order dated 11-12-2017 appointing the executive officer to the respondent No.3 temple was furnished to the petitioner on 01-02-2018. The petitioner submits that the impugned order passed by the respondent No.2

is in violation of the circular issued by the Commissioner, Endowments Department and also contrary to Sec. 29 of the Act. The petitioner further submits that the respondent No.2 issued the said proceedings only on the ground of better administration and illegally without issuing any notice to the Yadava Community people including petitioner herein who are managing the respondent No.3 temple, contrary to the circular issued by Commissioner and neither following the procedure and nor in accordance with law.

6. Section 29 of Telangana Charitable and Hindu Religious Institutions and Endowments Act reads as follows:

> "**Section 29 - Appointment and duties of Executive Officer:-** There shall be an Executive Officer for every Charitable or Religious Institution or Endowment to be appointed by the Government in the case of institutions and Endowments having income of rupees one crore and above and by the Commissioner in the case of other Institutions and Endowments included in the lists published under clauses (a) and (b) of Section 6. In respect of charitable or religious institutions or endowment having income of less than rupees two lakhs per annum, and included in the list published under clause (c) of Section 6, it shall not be necessary to appoint an executive officer. The cadre of Executive Officers to be appointed under this section for the respective institutions on the basis of the income of the Institution or Endowment shall be as may be prescribed:
>
> Provided that, where there is no Executive Officer in respect of any Charitable or Religious Institution or Endowment, the trustee or the Chairman of the Board of Trustees or any employee of any Institution or Endowment where the income exceeds Rs.2 lakhs, but is less than Rs.25 lakhs per annum, duly authorised by the Commissioner in this behalf shall exercise the powers and

perform the functions and discharge the duties of an Executive Officer:

Provided further that it shall be competent for the Commissioner to appoint an Executive Officer to any institution having income of less than Rs.2 lakhs per annum if there are substantial immovable properties to the institution or if he is satisfied that such appointment is necessary in the interest of better administration of the institution or for any other reason to be recorded in writing:

Provided also that, it shall be competent for the Commissioner to constitute such number of Charitable and Hindu Religious Institutions and Endowments as may be necessary, into a single group for the purpose of appointing an Executive Officer or any other employee to such group.

(2) The number of Executive Officers in each grade shall be as may be prescribed by the Government from time to time and the Commissioner shall be the appointing authority for the Executive Officer of Grades I, II and III:

Provided that forty percentum of vacancies in third grade Executive Officers posts and twenty percentum of the vacancies in other two grades of Executive Officers shall be filled by the employees belonging to the institutions or Endowments of prescribed grade:

Provided further that it shall be competent for the Government to appoint a Regional Joint Commissioner as an Executive Officer to any institution and it shall be competent for the Commissioner to appoint a Deputy Commissioner or an Assistant Commissioner as an Executive Officer to any institution basing on the annual income of such institution.

(3) The Executive Officer appointed and exercising the powers and discharging the duties shall be a person professing Hindu Religion and shall cease to exercise those powers and discharge those duties when he ceases to profess that religion.

(a) The Executive Officer appointed under this section shall be responsible for carrying out all lawful directions issued by such trustee from time to time;

(b) The Executive Officer shall, subject to such restrictions as may be imposed by the Government;

(i) be responsible for the proper maintenance and custody of all the records, accounts and other documents and of all the jewels, valuables, money, funds and other properties of the Institution or Endowment;

(ii) arrange for the proper collection of income and for incurring of expenditure;

(iii) sue or be sued in the name of the institution or Endowment in all legal proceedings;

Provided that any legal proceedings pending immediately before the commencement of this Act by or against an institution or Endowment in which any person other than an Executive Officer is suing or being sued shall not be affected;

(iv) deposit of money received by the institution or Endowment in such Bank or treasury as may be prescribed and be entitled to sign all orders or cheques against such moneys;

Provided that the Executive Officer shall not encash the fixed deposit certificates pertaining to any scheme or specific endowment under any circumstances;

(v) have power in cases of emergency to direct the execution of any work or the doing of any act which is provided for in the budget for the year or the immediate execution or the doing of which is in his opinion necessary for the preservation of the properties of the institution or endowment or for the service or safety of pilgrims resorting thereto and to direct that the expenses of executing such work or the doing of such work or the doing of such act shall be paid from the funds of the institution or endowment:

Provided that the Executive Officer shall report forthwith to the Trustee, any action taken by him under this sub-clause and the reasons therefore and obtain approval;

(c) The Executive Officer shall, with the prior approval of the trustee institute any legal proceedings in the name of the institution or endowment or defend any such legal proceeding;

(d) The Executive Officer appointed under this section shall be the employee of the Government and the conditions of his service shall be such as may be determined by the Government. The salary, allowances, pension and other remuneration of the Executive Officer shall be paid out of the consolidated fund of the State and later recovered from the Endowment Administrative Fund.

(e) It shall be the duty of the Executive Officer of every Religious or Charitable Institution to foster faith, devotion and ethical conduct in the society, by facilitating formation of a Bhaktha Samajam attached to each Institution, on voluntary basis, consisting of the devotees thereof in order to periodically organize Bhajans, Religious discourses devotional and other Religious programmes such as Nagara Sankeertans etc., appropriate to the Custom, Usage, Tradition and Sampradayams of the Institution concerned.]"

7. It is further submitted that according to the circular dated 07-09-2010 issued by respondent No.2 in Rc.No.DP1/41555/ 2010 restricting publication and registration of temples under purview of the department as per the instructions issued in the officers meeting on 01-04-2010, the Commissioner had stated that the department is already handing over 37,000 temples and its landed properties. The E.O. who assumed the charge of respondent No.3 institution is holding charge of more than 10 temples in different villages. The petitioner submits that as already the E.O. is holding the charge of other temples, directing her to assume the charge of respondent No.3 institution will burden and hence she cannot effectively manage the institution. He submitted that after assuming charge with the police aid, the E.O conducted the annual festival on 21-01-2018 by collecting huge donations by visiting each house in the village in order to get more income,

which is contrary to the usage and custom of the temple. In view of the above circumstances, the petitioner is constrained to file the writ petition.

8. The third party implead petition sought in I.A.No.3 of 2018 after hearing was ended in dismissal. The counter affidavit filed on behalf of the 2nd respondent-Commissioner of Endowments by Additional Commissioner of Endowments by name E. Srinivas Rao speaks that the temple is being managed by local people of all communities and the petitioner cannot claim without establishment of his status as trustee of the temple, the Commissioner in exercise of the power under Section 29 of the Act in the interest and better administration passed the impugned order dated 11.12.2017 appointing Executive Officer to assume charge of R.3-temple and the EO accordingly assumed charge on 20.12.2017. In **Annadana Samajam Vs. Commissioner**[1], it was held by the Apex court that EO can be appointed even where there is a hereditary trustee, notwithstanding and management of the institution or endowment, to discharge the functions of the EO contemplated by the Act in saying duties of the EO concerned with secular aspects of administration. It is averred that it may be true and correct to say petitioner's family and some other Yadava community people were the protected tenants covered by S.No.453 of Gatkesar Village and they got Section 38(6) certificate of Telangana Protected Tenancy Act and father of the petitioner is one among such of them. However, the petitioner is put to strict proof of the claim that yadav community people constructed the Maisamma

[1] 1971 SCWR 22

Temple-R.3 and developed the same with their own funds. The temple is constituted on the hill-lock and all community worship the goddess and participate in annual jatara to say it is a public religious temple. The petitioner has to put to strict proof of the allegation of only their yadav community people perform annual jatara without collecting donations or contributions. In fact the Assistant Commissioner Endowments, RR District, by letter dated 23.08.2017 submitted report stating local MLA, Medchal by letter dated 23.01.2017 informed of Gattu Maisamma Temple an ancient one of 100 years of age and getting huge income with huge congregation of devotes during jathara and requested to over see the administration by the Department for conducting jatara and other programs and consequently after verification and scrutiny the institution was registered under Section 43 of the Act by the proceedings of the Assistant Commissioner dated 20.03.2017 and Assistant Commissioner requested the Commissioner to appoint EO in the interest of better administration of the temple and it is the Assistant Commissioner's recommendation to the Deputy Commissioner to visit the temple and submit detailed report from the instructions of the Commissioner, Deputy Commissioner submitted report on 22.09.2017 stating the temple is at hill-lock in an extent of 2000 square yards in S.No.543, Gatkesar constructed 100 years ago and poojapath of temple performed by Kummari Poojaries and all community people and villagers are interest to bring the temple into the fold of Endowments Department in recommending to appoint EO. Under Section 8(1) of the Act subject to other provisions, administration of all charitable and religious institutions shall be under the general superintendence and control of the Commissioner, which shall include the power to pass orders deemed necessary to ensure that such institution or endowment to be properly administered and income is duly appropriated for the purposes for which they are found and exist and as per Section 29 of the Act, the Commissioner is also competent to appoint EO for its better administration and taking consideration of all these facts, the Commissioner appointed the EO to R.3-Temple by the proceedings dated 11.12.2017 and the EO has taken charge consequently on 20.12.2017 in the presence of MRO, Police and villagers and the EO conducted the annual jatara commencing from 21.01.2018 for 3 Sundays it collected hundi of Rs.7,08,849/- after first week of jatara and hundies are yet to be opened further which may fetch Rs.5 lakhs and contention that the subject temple income is less than Rs.2 lakhs is not correct. It is contended that there is no any violation committed in passing the impugned orders and the writ petition is liable to be dismissed.

9. Heard both sides and perused the material on record.

10. As the core of the contention is the impugnment of the appointment of the EO to the temple by the 2nd respondent-Commissioner by the impugned proceedings dated 11.02.2017, thus it is counter affidavit of the Commissioner that is criteria and not that of the 3rd respondent-EO, the impugned order dated 11.12.2017 by proceeding in Dis.No.A2/9075/2017 read as follows:

> "Sub:- Endowments Department – E.O's – Establishment – Executive Officer, Sri Balaji Venketeswara Swamy temple,

Venkatapur (V), Ghatkesar (M)- Placing full additional charge to the post of Executive Officer, Sri Gattu Maisamma Ammavari Temple, Ghatkesar (V&M), Medchal – Malkajgiri District – Orders – Issued.

Ref:- 1) Letter in Rc.No.C/987/2017, dt.23-08-2017 from the Assistant Commissioner, Endowments, Rangareddy.
2) This office Memo in Rc.No.A2/9075/2017 dated 24.08.2017
3) Lr.Rc.No.B1/4366/2017, dt.22-09-2017 from the Deputy Commissioner, Endowments Department, Hyderabad.

In the circumstances reported by the Assistant Commissioner, Endowments Department Rangareddy and Deputy Commissioner, Endowments Department, Hyderabad in the references 1st & 3rd cited respectively and in the interest of the better administration of Endowments institution, the Executive Officer, Sri Balaji Venkateswara Swamy temple, Venkatapur (V), Ghatkesar (M) is hereby placed full additional charge to the post of Executive Officer, Sri Gattu Maisamma Ammavari Temple, Ghatkesar (V&M), Medchal- Malkajigiri District for protecting valuable landed properties from encroachment until further orders.

The Executive Officer, Sri Balaji Venkateswara Swamy temple, Venkatapur (V), Ghatkesar (M) is directed to assume the charge of the post of Executive Officer, Sri Gattu Maisamma Ammavari Temple, Ghatkesar (V&M) in the presence of Inspector, Endowments Division concerned and to report compliance.

The Deputy Commissioner, Endowments Department, Hyderabad and the Assistant Commissioner, Endowments Department, Rangareddy are requested to see that the above orders are implemented without any deviation in the matter."

11. The references therein are letter of Assistant Commissioner of Rc.No.C/987/2017 dated 23.08.2017 and office memo dated 24.08.2017 and letter in Rc.No.B1/4366/2017 dated 22.09.2017 of Deputy Commissioner from which the impugned

orders are passed in appointing EO by the Commissioner and the impugned order from what is reproduced above speaks in the circumstances reported by the Assistant Commissioner and Deputy Commissioner in reference Nos.1 & 3 supra and in the interest of the better administration of endowment institutions, EO of Sri Balaji Venkateswara Swamy Temple is placed full additional charge to the post of EO of Sri Gattu Maisamma Ammavari Temple for protecting valuable landed properties from encroachment until further orders.

12. In fact from the counter affidavit of the 2nd respondent, there is nothing to show the temple got any landed properties much less valuable landed properties with the need to protect from encroachment by immediate appointment of the EO in question and that is the sum and substance of the appointment for said purpose covered by the impugned proceedings of the Commissioner. The letter of the Assistant Commissioner dated 23.08.2017 reference No.1 of the proceedings of the Commissioner supra, speaks letter of MLA Medchal dated 23.01.2017 by name Sri M.Sudheer Reddy says Sri Gattu Maisamma Temple is ancient one of 100 years old aged construction and getting huge income and huge congregation of devotees visit during jataras and requested to take over the temple by the Department for conducting jatara and other programs. It also refers to the memo of the Commissioner dated 07.12.2017 by enclosing the representation of the MLA to submit a detailed report. Consequently the Assistant Commissioner directed the Inspector to submit proposals for registration of the temple under Section 43 of the Act and after verification of the

proposal submitted by the Inspector registered the temple under Section 43 of the Act. It is therefrom requested to appoint EO to the temple and suggested EO of Balaji Temple, who is nearest to the temple may be appointed as EO of the temple in the interest and better administration of the temple at the earliest.

13. Even said Commissioner's impugned proceedings referring to the Assistant Commissioner's letter dated 23.08.2017 as reference No.1 that referred supra speaks letter of MLA given to the Commissioner and Commissioner in turn directed the Assistant Commissioner to submit a detailed report for taking of further action. However the Assistant Commissioner did not submit any detailed report, but for simply directed the Inspector to submit proposal for registration and cause registered the temple in the property registered by opening under Section 43 of the Act and that is what if at all submitted by the Assistant Commissioner and nothing beyond.

14. It practically shows from the letter of MLA saying the temple is 100 years old aged construction and during jatara huge congregation visit the temple and may get huge income and the Commissioner therefrom on the proposal to take over the temple by the Department to conduct jatara sought by MLA, even asked the Assistant Commissioner to submit a detailed report no report submitted by the Assistant Commissioner practically and the Commissioner's impugned proceeding dated 11.12.2017 reference No.3 further speaks of the letter of the Deputy Commissioner dated 22.09.2017; coming to that it speaks pursuant to the above referred memo of the Commissioner dated 24.08.2017 saying

Assistant Commissioner submitted proposal reference No.1 supra dated 23.08.2017 for appointment of EO and the Deputy Commissioner addressed to the Commissioner in saying poojapath was being performed by Kummari Poojaries and all community people are interested to handover the temple to the Department by registration of the temple. The Assistant Commissioner cause registered the temple under Section 43 of the Act. The temple is located in S.No.543 of 2000 square yards and it is located on NH-163 with every possibility for devotees to visit. One of the village elder Padma Reddy and Ghatkesar MPP Srinivas Goud also expressing interest in appointing EO, as MLA has given letter and thereby appointed the EO as requested by the Assistant Commissioner. Even what the Deputy Commissioner in reference No.3 cited is temple is situated in 2000 square yards land in S.No.543, there are no properties to the temple and there are poojaries belong to Kummari community and all community people are interested in handing over the temple to the Department. It is unknown when such is the case, how the impugned proceedings of the Commissioner speaks of appointment of EO necessity from the letter of the Assistant Commissioner and Deputy Commissioner supra, for protecting valuable landed properties of the temple from being encroached until further orders. There is nothing even from any of the report as to who constructed the temple and who are presently managing the temple either as founder or otherwise and who are the names of the poojaries and what are their statements if any and what is its income before appointing EO and as to it is required to be registered under Section 6 of the Act before appointment of EO as those were not at all, though required to be drawn attention, drawn attention.

15. In fact as held by the Apex Court in **Mohinder Singh Gill & Another Vs. The Chief Election Commissioner, New Delhi**[2], when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented from the fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, gets validated by additional grounds later brought out as held by the Apex Court also in AIR 1952 SC 16. Thus the validity of the order of commissioner can be judged from what are the reasons mentioned therein and nothing to supplement either from the counter affidavit of the Commissioner or that of the other respondents to it and as referred supra, the impugned order of the Commissioner once refers to have been relied on the letter of Assistant Commissioner and letter of Deputy Commissioner respectively dated 23.08.2017 & 24.08.2017 and nothing reflects even what is income of the temple and how they are collecting the income of temple and spending earlier and what is its origin and why all of a sudden appointment of EO arisen those are silent in the impugned order and leave apart when Deputy Commissioner letter speaks of the temple is located in 2000 square yards site and with no other property how the Commissioner could pass order saying the appointment of EO is necessary for protecting valuable landed properties from encroachment until further orders. The very reference No.3 in passing the order is running

[2] AIR 1978 SC 851

contrary to the above order by the so called reason to say that the said order is unsustainable on its face.

16. Coming to Section 29 of the Act what it speaks is only those institutions and endowments included in the list to be published under Section 6 of the Act, there shall be Executive Officer (EO). It speaks for those institutions having income of rupees one crore and above, the Government shall appoint EO and in case of other Institutions and Endowments, the Commissioner of those included in the lists published under clauses (a) and (b) of Section 6, whereas those institutions or endowment having income of less than rupees two lakhs per annum, and included in the list published under clause (a) of Section 6. First proviso speaks where there is no Executive Officer of any such Institution or Endowment, the trustee or the Chairman of the Board of Trustees or any employee of any Institution or Endowment where the income exceeds Rs.2 lakhs, but is less than Rs.25 lakhs per annum, can be authorized by the Commissioner to exercise the powers and perform the functions and discharge the duties of an Executive Officer. Second proviso speaks it shall be competent for the Commissioner to appoint an Executive Officer to any institution having income of less than Rs.2 lakhs per annum if there are substantial immovable properties to the institution or if he is satisfied that such appointment is necessary in the interest of better administration of the institution or for any other reason to be recorded in writing. Third proviso speaks that it shall be competent for the Commissioner to constitute such number of Charitable and Hindu Religious Institutions and Endowments as may be

necessary, into a single group for the purpose of appointing an Executive Officer or any other employee to such group.

17. None of the requirements of Section 29(1) satisfied in the case on hand much less the impugned order passed with any supporting reasons for that. Further more the proceedings of taking charge by the EO purportedly appointed by the impugned order of the Commissioner for the 3rd Respondent temple shows the so called E.O. in the presence of the so called elders on 20-12-2017 taken that temple under her administration and management. It is not even mentioned who were managing and from whom it was taken under her control for administration and management and if there is already a trustee how it could be taken under administration and management, but for to work under the control of trustee by the E.O. for not the appointment of a official single trustee or person in management as a temporary measure. Even Section 8 of the Act says the general supervision and control of all Charitable and Hindu Religious institutions and endowments shall be under the general superintendence and control of the Commissioner including the power to pass any order which may be deemed necessary to ensure that such institutions and endowments to be properly administered and their income is duly appropriated for the purposes for which they were found or exist and it is subject to other provisions of the Act. Once the other provisions of the Act covered by Section 29 requires a notification as a Public Institution under Section 6 of the Act by the Commissioner and that is lacking, the question of appointment of E.O. under Section

29 of the Act including Section 8 to read into that also does not arise. Thereby the impugned order is unsustainable.

18. Further what Section 15 of the Act says to a religious or charitable institution or endowment included in Section 6(a) for appointment of board of trustee either by the Government or by the Commissioner depending upon the income. Section 15 proviso (1) speaks that the Deputy Commissioner may either in the interest of the institution or endowment or any other sufficient cause or for reasons to be recorded in writing appoint a single trustee instead of a Board of Trustees. Second proviso says that if there are more than one Archaka, the Pradhana Archaka thereof shall be an ex-officio member of the Trust Board notwithstanding clause (g) of sub-section (1) of Section 19. Third proviso says that where the Board of Trustees is not constituted for any reason, the recognized Founder or Member of the Founder's Family shall discharge the functions of the Board of trustees till a new Board of Trustees is constituted. Fourth proviso says that where there is no Executive Officer or Founder Family member to any institution or where the Government or the authority competent to constitute a Trust Board has not constituted the Trust Board within the period specified, the Commissioner shall make such arrangement as he deems fit to look after the affairs of the institution during the interregnum period between the date of expiry of the terms of the Trust Board and constitution of the new Trust Board. Further the last proviso says that one of the members of the Board of Trustees shall be a prominent donor with a long, track record of Philanthropy and support to Hindu Religious Institutions.

19. Even to place reliance on Section 15 of the Act it is not an appointment by the Commissioner under the Fourth Proviso of the Act as a stop gap arrangement from cessation of the period of trust board to the constitution of the new trust board, leave about if there is an Archaka, the Archaka must be ex-officio trustee and the founder family member must be one of the members to the board of trustees as Chairman.

20. The writ petition affidavit of the petitioners speak of the land where temple lies is theirs and it is their family deity constructed by their ancestors in the land belongs to them which is covered by their protected tenancy under Telangana Tenancy Act and they are managing the temple as their private deity out of their funds in performing jatharas etc., that should also required to be taken into consideration in passing any order of appointing any single trustee or single unofficial trustee or any employee as a trustee or person in management as the case maybe and it is not the case on hand covered by the impugned order.

21. For all these reasons, the appointment of the EO for the temple by the Commissioner of Endowments is unsustainable and accordingly set aside by allowing the Writ Petition as prayed for. However, it will not prevent the authorities covered by the provisions of this Act if at all to publish the institution by the commissioner under Section 6 of the Act subject to it's income into any of the classifications thereunder and constitute trust board or make arrangements stop gap for any person in management if necessary including any of the founders or

founder family members to the temple in question in considering also any such of those as the case maybe.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 22.03.2018
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