

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 5692 of 2018

ORDER:

1) The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the action of the first respondent in constituting a Renovation Committee under Section 146 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 30 of 1987 (hereinafter referred to "the Act") vide Memo No.4238/Endts.II/A2/2018 dated 16.02.2018 as bad and illegal.

2) The petitioner claims to be a member of the family, which established the subject temple i.e., Sri Kota Mysamma Devalayam, Tummadam village, Nidamanoor Mandal, Nalgonda District. Consequent to his recognition as a member of the founder's family by the Assistant Commissioner of the Endowments, the petitioner is said to be functioning as a trustee and managing the subject temple, which was registered under Section 43 of the Endowments Act. It is said that the subject temple was constructed in the land belonging to the petitioner, in Sy.No.955/AA/4 totally admeasuring Ac.1.00, out of which the petitioner has gifted Ac.0.20 guntas of land by a registered deed dated 16.11.1998. On 06.08.2018 the first respondent herein issued a notification for

constituting a board of trustees to the subject institution vide Memo No.4759/Endts.II/A1/2018-2 dated 06.08.2018 in Form-I under Rule 4(1), calling for applications from the public for constituting a board of trustees. Challenging the same, W.P.No.36728 of 2016 dated 01.10.2016 came to be filed, wherein an interim suspension came to be granted by the High Court. Having failed in their attempt to constitute a board of trustees, the Government now formed a Renovation Committee under Section 146 of the Endowments Act consisting of respondents 4 to 6 as its members. It is said that though the petitioner is a founder member, his name has been excluded from consideration. Challenging the same, the present writ petition came to be filed.

3) Sri M.Vidyasagar, learned counsel for the petitioner would contend that though the Government has power to constitute a renovation committee under Section 146 of the Act, but the persons so appointed should satisfy the requirements of Sections 18 and 19 of the Act. According to him, a joint reading of Sections 18 and 19 of the Act, would indicate that the procedure for constituting a board of trustees under section 15 of the Act is required to be followed. In the absence of any notification and as no applications were called for from public in general to be appointed in the renovation committee, and as the committee came

to be appointed basing on a letter by the Commissioner of Endowments, he submits that the entire procedure adopted is illegal and improper. He further submits that no enquiry was conducted to find out as to whether the members of the renovation committee satisfied the requirements of Sections 18 and 19 of the Act. He further argued that the proceedings do not anywhere indicate that there was any such necessity for constituting a renovation committee. In the absence of any renovation of the temple, he would contend that constitution of renovation committee itself is unnecessary.

4) Respondent No.3 filed their counter denying the averments made in the petition except to those which are specifically admitted. He would contend that there are number of ancient temples and some temples with architectural grandeur are in dilapidated condition and the same requires immediate renovation, preservation and maintenance. He further submits that in the instant case, many of the devotees and philanthropists are coming forward to donate funds for undertaking the developmental activities of the temple. As such, at the behest of the Commissioner, Endowments Department, Hyderabad, the Government has constituted a "Renovation Committee" u/s.146 of the Act 30 of 1987 vide Memo No.4238/Endt.II/A2/2018 dated

16.02.2018 to renovate the subject temple comprising of 6 members for a period of one year. It is further submitted that sub section (2) of Section 146 of the Act deals with the composition of committee and other matter relating to the functions of the committee. Accordingly, the rules have been framed u/s.146 of the Act 30 of 1987 vide G.O.Ms.No.649 dated 30.06.1989. The purpose of these rules provide for procedural matters which are subsidiary to the provision of the Act. It is further stated that sub-section (3) of Section 146 of the Act mandates that the provisions in Chapter VII viz., Sections 57 to 64 shall apply to the Renovation Committee. The antecedents of members of the renovation committee have been verified by the concerned authorities, as required under Sections 18 and 19 of the Act, before constitution of the Renovation Committee and all the statutory requirements have been fully complied with on 19.02.2018.

5) Counters came to be filed by respondents 4 to 9, who are the members of the renovation committee and also by the Government Pleader for Endowments disputing the averments made in the affidavit filed in support of the writ petition. It is stated that the subject temple is now under the control of Deputy Commissioner, Endowments and there is an Executive Officer

appointed by the temple, who is managing the affairs of the temple.

The averment that the petitioner is managing affairs of the temple is denied, since it is the Executive Officer appointed for the temple in conformity with the provisions of the Act is supervising and the managing affairs of the temple. The fact that Writ Petition No.36728 of 2016 came to be filed before this Court and the same is pending adjudication is not disputed. Referring to Section 146 of the Act and the Rules framed under Section 146 of the Act 30/1987 vide G.O.Ms.No.649 dated 30.06.1989 it is urged that the constitution of renovation committee cannot be found fault with.

6) In order to appreciate the same, it would be useful to refer to certain provisions of Act 30/1987 and renovation committee rules 1987. Section 146 of the Act 30/1987 deals with constitution of renovation committee and its liability. It reads as under:-

"146. Constitution of Renovation Committee and its liability:-

(1) The government may constitute a renovation committee to any religious or charitable institution consisting of persons with qualifications prescribed in Section 18 and subject to qualifications specified in Section 19.

(2) The composition of the Committee, the term of the Office of the members of the Committee and other matters relating to the functions of the committee shall be such as may be prescribed.

(3) The provisions in Chapter VII except Section 57 shall apply to the renovation committee."

7) Sub-section (1) of Section 146 of the Act prescribe that the Government would constitute a renovation committee to any religious or charitable institution consisting of persons with qualifications prescribed in Section 18 and subject to disqualifications specified in Section 19. Therefore, even for appointment of a person in the renovation committee, he should satisfy the tests laid down in Sections 18 and 19. Section 18 of the Act which deals with qualification of trusteeship prescribed that a person to be appointed as a trustee should have faith in God; possess good conduct, reputation and commands in the locality; should have contributed for construction, renovation or development of any institution or performance; should have sufficient time and interest to attend the affairs of the institution and lastly he should possess any other merit. Section 19 prescribes various conditions for disqualification of a member.

8) The Renovation Committee Rules came to be made pursuant to the powers conferred under Sections 146 and 153 of the Act 30/1987 and the Rules made thereunder. Rule 3 reads as under:-

"3. Constitution of Renovation Committee:- With effect from such date as the Government may by notification appoint in this behalf there shall be established for the purpose of these rules a Committee to be called the Renovation Committee, to any religious or charitable institution consisting of Chairman, Secretary. Treasurer and such other members possessing the

qualifications as specified in Section 18 and free from disqualifications specified in Section 19 of the Act."

9) Rule 7 deals with Functions of the Committee, which reads as under:

"7. Functions of the Committee - The Committee shall have the following functions namely:-

(a) to prepare the plans for the renovation and construction work of the institutions;

(b) to supervise the works that are under execution;

(c) to raise and collect donations from the worshippers and others for the proposed renovation and construction works of the institution;

(d) to advise and assist the Board of Trustees if any, with constructive suggestions for the proper execution of works; and

(e) to decide as to and in which manner the donations collected have to be spent for the renovation work of the institution."

10) A reading of Rule 3 would show that the Government shall establish the Rules Committee, calling as Renovation Committee, to any religious or charitable institution consisting of Chairman, Secretary, Treasurer and such other members possessing the qualifications as specified in Section 18 and free from disqualifications specified in Section 19 of the Act. Therefore, it cannot be said that these rules are contrary to the provisions of the main Act, as rule 3 also prescribed that the appointment of members should be in conformity of Section 18 and free from disqualification as specified in Section 19 of the Act. The affidavit

filed in support of the writ petition does not anywhere indicate that the members so appointed lack any of the qualities or does not fulfill the requirement of Section 18 of the Act. A vague statement is made that procedure contemplated under Section 18 of the Act is not followed and that an enquiry should have been conducted before appointing members of the management committee.

11) As seen from the proceedings dated 10.02.2018 issued by the Commissioner, Endowments, the Assistant Commissioner of Endowments submitted a report expressing a need to constitute a renovation committee to the subject temple for development of temple along with a report containing the antecedents of the persons to be appointed as members of the committee. Basing on the said report, which refers to the antecedents of the persons to be appointed, the Commissioner issued the proceedings. Therefore, the argument of the learned counsel for the petitioner that there was no enquiry before constituting the committee, cannot be accepted.

12) Further, the letter dated 15.04.2017 addressed by the Assistant Commissioner to the Commissioner, Endowments, would show that the Commissioner has issued notification with a direction to publish the same in news papers and the said notification came

to be published in Namaste Telangana and Andhra Jyothi news papers, calling for applications, to be appointed as trust board members and thereafter the applications were forwarded to the Inspector for verification of the antecedents. The Assistant Commissioner in his proceedings dated 28.03.2017 states that he had been to the applicants for verification of their antecedents and found that 17 out of the total number of applicants were qualified under Section 18 of the Act to be appointed as trust board members. This satisfaction came to be reached basing on the conditions stipulated under Sections 18 and 19 of the Act. It may be true that this notification came to be issued for constitution of non-hereditary trust board members, but nothing in the Act to show that the persons who applied for trust board members cannot be appointed as members of renovation committee.

13) As stated earlier, Writ Petition No.36728 of 2016 came to be filed challenging the memo dated 06.08.2016 issued in Form-I under rule 4 calling for the applications for constituting a non-hereditary board trust on the ground that the same is opposed to rules framed under Section 17 of the Act, as the notification publication and power to receive application is only on the Commissioner and not on the Government. But the Rule 3 of the renovation committee confers power on the Government to appoint

persons as members of the renovation committee who are possessing qualifications as prescribed in Section 18 and who are free from disqualification as specified in Section 19. Therefore, the persons whose antecedents were verified not only by the Inspector but also by the Assistant Commissioner, came to be appointed as members of the renovation committee by the Government. Hence, the argument of the learned counsel for the petitioner that there is no enquiry and issuance of a letter appointing persons as members of the renovation committee does not satisfy the requirement of law, cannot be accepted.

14) The next ground urged by the learned counsel for the petitioner is that though there is no renovation work, a renovation committee came to be appointed to circumvent the order passed by the court. It is to be noted here that the contents of the earlier Writ petition and the relief sought therein is different from the present one. Apart from that, there is no averment in the writ petition that the renovation committee is unnecessary for the temple. At the same time it is also to be noted that Rule 7, which deals with functions of the committee postulate that the committee shall have the following functions viz., to prepare plans for renovation and construction work, to supervise the works, to raise and collect donations from the worshippers, to advise and

assist the Board of Trustees if any and to decide as to and in which manner the donations collected have to be spent.

15) A reading of the above rule shows that, if necessary, the Committee has to prepare a plan for renovation and construction work of the institutions as well. In view of the material on record to show that the temple is in a dilapidated condition, which requires immediate renovation and developmental activities, constitution of a renovation committee by the Government cannot be found fault with. Hence, for the aforesaid reasons, I see no merits in the writ petition and the same is liable to be dismissed.

16) Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:08.11.2018

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