

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.15960 OF 2003

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the order dated 30.06.2003 passed by the 1st respondent and to quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri K.V.Satyanarayana, learned counsel appearing for the petitioner and learned Government Pleader for Labour appearing for the 1st respondent.

The petitioner is the Devasthanam. Respondents 2 and 3 were appointed on part-time basis as Sweepers on 1.4.1996. Subsequently, respondents 2 and 3 have abandoned their services with effect from 4.4.2003. Thereafter, respondents 2 and 3 have approached the 1st respondent alleging that they were illegally terminated from service. The 1st respondent had entertained the complaint of respondents 2 and 3 and *vide* order dated 30.6.2003 advised the petitioner to take back respondents 2 and 3 into service. Challenging the same, the present writ petition is filed.

While admitting the writ petition on 1.8.2003, this Court in WPMP No.19776 of 2003 granted interim stay.

Learned counsel appearing for the petitioner contends that the 1st respondent has no authority to direct the petitioner to take back respondents 2 and 3 into service under the provisions of Shops and Establishments Act (for short 'the Act'); that the said Act has no application in respect of petitioner-Devasthanam; and that the writ petition is liable to be allowed.

Having considered the said submissions, this Court is of the considered view that no where in the impugned order passed by the 1st respondent, it is stated that the proceedings under the aforesaid Act have been initiated and the 1st respondent had merely advised the petitioner to take back respondents 2 and 3 into service. There was no direction therein to reinstate respondents 2 and 3 into service and discretion is left to the petitioner to take back respondents 2 and 3 into service or not. The 1st respondent has no authority to interfere with the disciplinary matters and also in the service matters of the petitioner's employees.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

