

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 22645 of 2006

O R D E R:

This writ petition is filed for the following relief:

“to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not handing over the charge to petitioner No.2 herein as Correspondent in pursuance of the proceedings, dated 21.09.2006, issued by petitioner No.1 Trust and continuing respondent No.3 as Executive Officer-cum-Correspondent of petitioner No.1 Trust is illegal, unjust, arbitrary, apart from contrary to the orders issued in G.O.Ms.No.52, dated 18.01.2001 as amended through G.O.Rt.No.1535, dated 02.08.2005 and also contrary to the judgment of a Division Bench of this Hon'ble Court in W.A.No.830 of 2001, dated 19.07.2001 and consequently direct the respondents to hand over the charge to petitioner No.2 herein in pursuance of G.O.Rt.No.1535, dated 02.08.2005 and in view of the orders of the Division Bench of this Hon'ble Court in W.A.No.830 of 2001, dated 19.07.2001.....”

Petitioner No.1 is a Trust established in the year 1958 and registered under the provisions of the Societies Registration Act, in 1973, as such, it is under the control of the Department of Endowments. There are 12 educational institutions run by petitioner No.1. It is not necessary for this Court to mention the details thereof. While so, respondent No.1 Government issued G.O.Ms.No.52, dated 18.01.2001, sanctioning one post of Executive Officer in the cadre of Assistant Commissioner to petitioner No.1 subject to the following conditions:

- (i) The pay and allowances of the Executive Officer will be paid by the 'MANSAS' Trust;
- (ii) The appropriate level officer will be deputed by the Endowment Department and the corresponding post in the Endowment Department will be suppressed;
- (iii) The post shall be used as Executive Officer-cum-Correspondent.

Subsequently, the affairs of petitioner No.1 were looked-after by the Executive Officer-cum-Correspondent deputed by the respondent No.1. After retirement of such Executive Officer-cum-Correspondent, charge of the said post is entrusted to the Deputy Commissioner. As the administration of petitioner No.1 and its educational institutions is beyond the scope of the Officer of the said post, respondent No.1 issued G.O.Rt.No.1535, dated 02.08.2005, deleting clause (iii) of para 2 of G.O.Ms.No.52, dated 18.01.2001. Pursuant to the said G.O.Rt., on 21.09.2006, petitioner No.1 appointed petitioner No.2 - K.Atchyutha Rao, Retired Principal, M.R. College, Vizianagaram, as Correspondent of the Educational Institutions but the Executive Officer was refusing to allow him to function. Hence, this writ petition.

Sri S. Ramachander Rao, learned Senior Counsel appearing for the petitioners, submits that the Division Bench of this Court in Writ Appeal No.830 of 2001 and Writ Petition No.1329 of 2001 vide judgment, dated 19.07.2001, categorically held that respondent No.1 has no right in so far as the management of petitioner No.1 and its educational institutions is concerned, as such, the power of respondent No.1 to appoint a Correspondent to manage the Educational Institutions is no more *res integra*.

Learned Government Pleader for Endowments contends that since petitioner No.1 is a registered Trust, being run under the administrative control of the Commissioner of Endowments

Department, the issue with respect to the right of petitioner No.1 for appointment of a Correspondent was not dealt with by the Division Bench of this Court in the aforesaid judgment, as it was not the issue thereunder.

A perusal of the judgment referred to supra discloses that though the issue was not directly raised, in the context of the specific contention of an individual to continue as a Correspondent of petitioner No.1, the Division Bench of this Court held that the right to appoint a Correspondent exclusively vests with the body establishing the Educational Institutions. Further, there is no dispute that it is the Trust, which established the educational institutions and is running the same. In view of the same, the submissions made on behalf of the petitioners commend acceptance.

In those circumstances, the writ petition is allowed, directing the respondents to handover the charge of the post of Correspondent to petitioner No.2.

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

CHALLA KODANDA RAM, J

Dt:10.07.2018

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