

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23872 of 2015

ORDER:

This writ petition is filed seeking a writ of mandamus, declaring the impugned orders of respondent No.2, vide Memo in RC.No.B1/169/2015, dated 26.06.2015, appointing an Executive Officer for respondent No.4 temple and other temples, without following the principles of natural justice, without assigning any reasons for such appointment, as illegal, arbitrary and unjust and consequently set aside the same.

Heard Sri Sudarshan Reddy Duddugunta, learned counsel for the petitioner, the learned Government Pleader for Endowments for respondents Nos.1 to 3 and Sri K.Jaganmohan, learned standing counsel for respondents Nos.4 to 7 temples.

It has been contended by the petitioner that the local people have constructed respondents Nos.4 to 7 temples in Amberpet and a registered Committee was constituted under Societies Act and the said Committee was managing the affairs of the temples. The Committee was being represented by its Chairman/Managing Trustee. The petitioner Seva Samithi is managing the temples without any complaints, however, without giving any opportunity, the 2nd respondent has appointed an Executive Officer to the said temples on 26.06.2015, based on the report submitted by the Assistant Commissioner of Endowments, Hyderabad.

The learned counsel, appearing for the petitioner, has relied upon a judgment of the Division Bench of this Court in *Executive Officer,*

*T.G.Temples v. Gopal Inani*¹. The Hon'ble Division Bench of this court has passed the orders in the following effect:

“Learned counsel for the appellant submits Section 27 in terms as not requiring any notice to be given before the appointment of the executive officer. Admittedly, the respondent No.1 has the subsisting right to manage the affairs of the temple, receive all the income and make disbursements, the rights which was allowed to him under the decree of the Madras High Court. The executive officer appointed to manage the affairs of the temple, to take possession of the records, accounts and all the properties, movable and immovable, would undoubtedly severely effect the interests of the respondent No.1 adversely. It is now well settled in law that principles of natural justice are required to be mandatorily complied with in all actions taken by administrative or statutory authorities unless the requirement can be said to be excluded either by express provision of the statute or by necessary implication. In other words, to all provisions of the statute under which actions are directed to be taken, compliance of the rules of natural justice are to be regarded as in-built provisions in the statute itself, the only exception being express exclusion of the requirement in the provisions of the statute or such exclusion by necessary implication. It is for this reason alone we would agree with the judgment of the learned single judge that the order was not one properly passed particularly when the occasion for appointment of the executive officer was the alleged mismanagement of the temple. Discretion vested in the Commissioner to appoint the executive officer has to be judiciously exercised and if it was to be exercised because of defective or negligent management by the respondent No.1, he was to have been heard before any adverse action against him was taken. In that view of the matter, we do not find any merit in the appeal which is dismissed with costs. Advocate's fee rupees one thousand.”

As can be seen from the above judgment, before appointing any Executive Officer, it is mandatory to give an opportunity to the Managing Committee of the temple. In the instant case, admittedly the

¹ 1996 (1) ALD 1187 (D.B)

Commissioner of Endowments has not given any opportunity to the petitioner Seva Samithi before appointing the Executive Officer. Therefore, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned orders, dated 26.06.2015, passed by respondent No.2. However, respondent No.2 is at liberty to appoint an Executive Officer, after giving an opportunity of being heard to the petitioner Seva Samithi, and after considering their objections, if any, for such appointment. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 18.04.2018
Dsr

ABHINAND KUMAR SHAVILI ,J

