

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.9961 of 2005

ORDER:

When the matter is taken up for hearing, learned counsel for the petitioner submitted that the petitioner was kept under suspension vide order dated 14.03.2005 passed by the 2nd respondent/the Executive Officer, who is not competent authority as per Sub-sections (1) and (2) of the Endowments Act and that the competent authority is the 4th respondent/Trust Board. Admittedly, the petitioner is working as Archaka of the 4th respondent temple and the income of the 4th respondent temple is less than Rs.10 lakhs and competent authority to place the petitioner under suspension is the Trust Board of the 4th respondent temple. But in the instant case, the 2nd respondent/Executive Officer had placed the petitioner under suspension vide orders dated 14.03.2015 and contended that even today the petitioner is being continued under suspension and prayed to pass appropriate orders directing the respondents to reinstate the petitioner into service.

Learned Government Pleader appearing for the respondents contended that the petitioner indulged in serious impersonation and that the respondents have rightly placed the petitioner under suspension.

This Court, having considered the rival submissions of the parties, is of the considered view that the 2nd respondent/Executive Officer is not the competent authority to suspend the petitioner as per Sub-sections (1) and (2) of Section 37 of the Endowments Act.

Therefore, the orders passed by the 2nd respondent are liable to be set aside, however, giving liberty to the respondents to conclude the disciplinary action, if any, they intend to take, within three months from the date of receipt of a copy of this order. It is needless to say that the respondents shall pay subsistence allowance to the petitioner for the period the petitioner was under suspension, in accordance with law.

The writ petition is allowed and the orders passed by the 2nd respondent are set aside. However, liberty is given to the respondents to conclude the disciplinary action, if any, they intend to take, within three months from the date of receipt of a copy of this order. It is needless to say that the respondents shall pay subsistence allowance to the petitioner for the period the petitioner was under suspension, in accordance with law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

20.12.2018

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