

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No.1181 of 2018

Judgment: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

The writ petitioner is the appellant. We have heard his learned counsel in this appeal at the stage of admission.

2. Under challenge is the order by which, the Writ Petition stands dismissed.

3. The writ petitioner-appellant has pleaded that he is a founder family member of the particular temple in relation to the affairs of which, the Writ Petition was filed. The Additional Commissioner of Endowments, Telangana State had issued a notification dated 28.6.2018 inviting applications for constitution of Non-hereditary Trust Board for that Devasthanam. This was challenged by the writ appellant before the learned Single Judge.

4. The challenge levied through the Writ Petition was two fold. Firstly, it was contended that it was not within the authority of the Additional Commissioner to issue the notification under Section 15(2) of the Telangana Charitable and Hindu Religious Institutions & Endowments Act, 30 of 1987 (hereinafter referred to as "the Act"). The second contention was that the petitioner's application for exemption was pending for consideration.

5. Among the aforesaid, the second contention was rightly refused to be considered since the question of exemption could not

have been dealt with on the basis of the facts noticed by the learned Single Judge.

6. As regards the issue of the Additional Commissioner issuing a notification, the learned Single Judge referred Sub-section (6) of Section 2 of the Act, which reads as follows:

“Commissioner means the Commissioner and the Additional Commissioner appointed under sub-section (1) of Section 3 and includes every officer, who for the time being exercises the powers and performs the functions of a Commissioner under this Act or the rules made thereunder in respect of any charitable or religious institution or endowment as specified in sub-section (5) of Section 3.”

7. The afore-quoted provision shows that the “Commissioner” means the Commissioner and the Additional Commissioner appointed under Sub-section (1) of Section 3. That particular definition of the term “Commissioner” under Sub-section (6) of Section 2 has a further inclusive component which enlarges the scope of that definition by bringing into its basket different officials, who, for the time being, would be delegated with functions of the Commissioner. The statutory equation between the Commissioner and the Additional Commissioner is part of primary legislation. It is that which has been referred to by the learned Single Judge in the impugned judgment to repel the plea of the writ petitioner that the Additional Commissioner could not have exercised the powers of the Commissioner. We do not find any legal infirmity in the impugned decision rendered by the learned Single Judge.

8. This Writ Appeal fails and the same is, accordingly, dismissed.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

Date: 10th September, 2018

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