

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 43230 of 2018

Date : 30.11.2018

Between:

Nayeemulla Shareef S/o Mohd Ali Aged about 62 years Occ
Social Worker as General Secretary Wakfs Protection Cell
Telangana State R/o 10-3-14/6/405/B Humayunnagar
Mehidipatnam Hyderabad 500 028 & another

Petitioner

And

The State of Telangana
Rep by its Prl Secretary Minority Welfare Department
Secretariat Hyderabad 500022 & others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioners, learned Government Pleader for Social Welfare for first respondent, Sri M.A. Mujeeb, learned standing counsel for second respondent and Sri A.M.Qureshi, learned counsel for third respondent.

2. Petitioners claim to offer prayers in Darga Hazarath Shah Khamoshi situated in Nampally, Hyderabad. Petitioners allege that the Muthawalli of the said Dargah/third respondent is indulging in illegal activities by selling the properties belonging to Dargah which are Wakf properties and were already gazetted. In spite of complaints filed against third respondent, no action is taken, hence, this writ petition is filed.

3. The prayer in the writ petition is to declare the action of respondents 1 and 2 in not taking action against third respondent for illegal alienation of Wakf properties of Dargah and to take action against third respondent and to remove third respondent from the post of Muthawalli.

4. Under Section 83 of the Wakf Act, 1995, Wakf Tribunal is constituted. The Tribunal under Section 83 has very wide powers and covers all aspects concerning Wakf properties. According to sub section (1) Wakf Tribunal is constituted for determination of any dispute or any other matter relating to a Wakf or Wakf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee of such property. According to sub section (2), any Muthawalli or any other person interested in a Wakf aggrieved by an order made under the Act or Rules made thereunder, may make an application.

5. In view of the provision contained in Section 83, it is open to petitioner to go before the Wakf Tribunal and complain about illegal sale of Wakf properties and endeavor Wakf Tribunal to take appropriate decision as required by law.

6. Section 64 of the Act, deals with removal of Muthawalli. According to learned standing counsel and learned counsel representing third respondent, earlier complaints were filed against third respondent and action was initiated and ultimately decision was taken to drop the proceedings against third respondent and would therefore submit that insofar the issue of taking disciplinary action against the Muthawalli is concerned, proceedings are concluded and it is no more open to undertake the exercise of conducting enquiry into the functioning of Muthawalli. Learned standing counsel also informs the Court that on certain allegations made against the existing Muthawalli alleging that he is disbursing the Wakf properties illegally Crime No. 110 of 2014 on 2.5.2014 was registered against him in CCS, Hyderabad and same was closed as no case was made out for proceeding against the Muthawalli. Therefore, question of taking disciplinary action against the Muthawalli as alleged would not arise. Thus, leaving it open to the petitioners to work out their remedies, if so advised to protect the Warf properties before the Wakf Tribunal, writ petition is dismissed. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 30-11-2018
TVK

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