

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20366 of 2019

ORDER:

This writ petition is filed challenging the order in F.No.144/MBNR/PROT/2007, dated 16-08-2019, wherein and whereby enquiry was ordered against the petitioners by the 3rd respondent in respect of certain irregularities alleged against them.

Learned counsel for the petitioners submits that as per Section 70 of Wakf Act, it is only the Wakf Board which can initiate enquiry but not the Chief Executive Officer (C.E.O.) and he also submits that the C.E.O. is not convening meetings as per Rule 7 of A.P.Wakf Rules, 2000 (for short "Rules, 2000), as such the impugned order is passed without jurisdiction.

On the other hand, learned Standing Counsel for respondents 2 and 3 submits that this Court passed orders in WP.No.45119 of 2017, dated 01-11-2018 for taking necessary action against the petitioners at the instance of writ petition filed by 4th respondent. He submits that there are serious allegations against the petitioners, which necessitated the 3rd respondent to take action.

It is relevant here to extract Sections 70 and 71 of Wakf Act, which read as under:

Section 70: Inquiry relating to administration of Wakf:

“ Any person interested in a wakf may make an application to the Board supported by an affidavit

to institute an inquiry relating to the administration of the wakf if the Board is satisfied that there are reasonable grounds for believing that the affairs of the wakf are being mismanaged, it shall take such action thereon as it thinks fit.

Section 71: Manner of holding Inquiry:

- 1) The Board may, either on an application received under section 73 or on its own motion,-
 - (a) hold an inquiry in such manner as may be prescribed; or
 - (b) authorizes any person in this behalf to hold an inquiry into any matter relating to a wakf and take such action as it thinks fit.
- 2) For the purposes of an inquiry under this section, the Board or any person authorized by it in this behalf, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) for enforcing the attendance of witnesses and production of documents.

In both the provisions, the Wakf Board has to initiate the proceedings but not the C.E.O. But in the present case admittedly the impugned order is passed by the 3rd respondent, who is the Chief Executive Officer, which is without jurisdiction. More so, Rule 7 of Rules, 2000 deals with convening of meetings. As per said Rule, the C.E.O. has not convened meetings.

In view of the same, the impugned order is set aside as the same is passed by the 3rd respondent without jurisdiction and the 3rd respondent is to convene the meetings as per Rule 7 of Rules, 2000.

Accordingly, the writ petition is allowed. However, this order will not preclude the Wakf-Board from taking necessary action. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

23-09-2019

Nvl



