

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition Nos.670 and 501 of 2020

COMMON ORDER:

Since challenge in both these writ petitions is to the order dated 23.11.2019 passed by the 3rd respondent and the pleadings also being common, both the writ petitions are being disposed of by this common order.

These writ petitions are filed under Article 226 of the Constitution of India for issuance of a *Writ of Mandamus* to declare the order passed by the 3rd respondent-Assistant Commissioner of Endowments, Hyderabad-II, vide proceeding R.Dis.No.D/2018-2019, dated 23.11.2019 including the names of the respondents 5 to 17 in Column No.4 of the 43-Register under the powers conferred under Section 43 (10) of Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), as being illegal, arbitrary, without jurisdiction, in violation of principles of natural justice and contrary to the orders passed by a Division Bench of this High Court in Writ Petition No.20653 of 2018 dated 13.08.2019.

Heard the learned counsel for the petitioners and the learned Government Pleader for Endowments appearing for the respondents 1 to 4 and Sri M.Vidyasagar, learned counsel appearing for the unofficial respondents.

In short, the case of the petitioners is that the 3rd respondent while giving effect to the orders of the Division Bench this Court in Writ Petition No.20653 of 2018 dated 13.08.2019 had acted contrary thereto and without considering the case of the petitioners.

The learned counsel for the petitioners by drawing the attention of this Court to the directions given by the Division Bench of this Court in Writ Petition No.20653 of 2018 submits that the 3rd respondent was directed to hear all the concerned parties after giving an opportunity of hearing to them and to pass the necessary order under Section 43 (10) of the Act thereafter.

Though the 3rd respondent had issued notice to the petitioners, to which the learned counsel for the petitioners submits that, the petitioners had submitted their reply dated 18.11.2019, the 3rd respondent authority without considering the same has merely brushed aside by observing that the proposals given by the petitioners on 18.11.2019 “no needs for consideration”. Thus, the learned counsel for the petitioners submits that the impugned orders passed by the 3rd respondent are clearly without application of mind and seeks for setting aside of the same.

On the other hand, Sri M. Vidya Sagar, learned counsel appearing for the unofficial respondents would submit that the 3rd respondent authority having taken note of the

proposals given by the petitioners herein found them to be not acceptable, did not consider the same and therefore, no interference is called for.

The learned Government Pleader for Endowments supports the impugned orders dated 23.11.2019 and seeks to sustain the same.

Having given due consideration to the submissions made and perusing the material on record, it is seen that though the 3rd respondent has noted the proposals given by the petitioners herein to the notice issued by the 3rd respondent dated 11.11.2019, pursuant to the orders of the Division Bench of this Court in Writ Petition No.20653 of 2018, the said authority without considering the said proposals given by the petitioners herein, has summarily rejected the same, which in the view of this Court is not sustainable. Thus, the action of the 3rd respondent in passing the impugned order is in clear abdication of duty cast upon him to go into the proposals made by the parties concerned and adjudicating thereupon with reasoning either accepting or rejecting such proposals. Since, the impugned orders passed by the 3rd respondent does not indicate such action having been taken, this Court is of the view that the impugned order cannot be sustained and is liable to be set aside.

Accordingly, the impugned order is hereby set aside and the matter is remitted back to the 3rd respondent-Assistant Commissioner of Endowments, Hyderabad-II to consider the proposals given by the parties concerned and pass orders afresh indicating the reasons for accepting or rejecting the proposal or other wise.

With the above observation and direction, these writ petitions are disposed of. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in these Writ Petitions shall stand closed.

T. VINOD KUMAR, J

Date: 30.01.2020
Isn

