

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.21750 of 2014

ORDER

This Writ Petition is filed seeking the following relief:

“to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring Memo F.No.9/B2/M/RR/2000, dated 17.07.2014 issued by the respondent as being illegal, arbitrary, violative of Article 14 of the Constitution of India as well as provisions of the Waqf Act by setting aside the same and pending disposal of the above writ petition, suspend the operation of the Memo dated 17.07.2014 by directing the respondent not to interfere with the duties of Mutawalli as has been rendered by the petitioner in respect of the Waqf institution viz Dargah Hzt Shah Ali Abbas Hussaini (RH) situated at Kutakpally, R.R.District, which is notified in Gazette No.6A, dated 09.02.1989 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard learned counsel on either side.

It is the case of the petitioner that his father, who worked as Muthawali of Dargah Hzt Shah Ali Abbas Hussaini, expired on 27.6.2008. Thereafter, he submitted representations dated 8.3.2011, 21.2.2011 to the respondents to consider his case for appointment as Muthawali. Since his case was not considered, he filed W.P.No.9416 of 2014 and this Court disposed of the same on 28.4.2014 directing the respondents to consider the case of the petitioner and pass appropriate orders. In pursuance of the said order, the respondents have considered the case of the petitioner. But in

view of the counter-affidavit filed in W.P.No.9416 of 2014, they have once again rejected his case *vide* order dated 17.07.2014. It was alleged in the counter-affidavit that the petitioner had allowed demolition of Arch of the Wakf and later, he claimed compensation from the respondents claiming that it is a private land and not a wakf land.

Learned counsel appearing for the petitioner contended that without application of mind, the respondents have passed very cryptic order stating that in view of the counter-affidavit filed in W.P.No.9416 of 2014, the case of the petitioner cannot be considered. It is prayed that the respondents be directed to consider the case of the petitioner afresh and pass a reasoned order.

Learned Standing Counsel appearing for the respondents contended that since the petitioner has demolished the Arch of the Wakf and later claimed compensation treating it as a private land, he has no right to claim appointment as Muthawali. There are no merits in the writ petition and the same is liable to be dismissed.

A perusal of the rejection order dated 17.7.2014 discloses that it is a cryptic order and no reasons were assigned and on this ground alone, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned rejection order dated 17.7.2014 is set aside. The respondents are directed to consider the case of the petitioner afresh and pass a reasoned order within a period of eight weeks from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 6.2.2020
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