

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(SPECIAL ORIGINAL JURISDICITON)

WEDNESDAY, THE SIXTH DAY OF JULY, TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
WRIT PETITION No. 18983 of 2022



Between:

Shagulam Nakshband Hafeez Pasha, S/o Late Shagulam Nakshband Ghouse Mohiuddin aged about 43 years, Sajjadanashin Cum Mutawalli of Dargah Shareef Huzoor Syedina Khwaja Rahamatullah Nayeb-e- Rasool, Rahamatabad Shareef, A.S. Peta, SPSR Nellore 524 304.

....Petitioner

AND

1. The State of Andhra Pradesh, Minority Welfare Department, rep. by its Secretary, Secretariat, Velagapudi, Guntur District.
2. Andhra Pradesh State Wakf Board, Rep by its Chief Executive Officer Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District
3. Chairperson, A.P. State Waqf Board, Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District
4. K. Nazeer Ahmed Khan, Enquiry Officer, A.P. State Waqf Board Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District.
5. Abdul Khuddus, Assistant Secretary, A.P. State Waqf Board, Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District.
6. Sri S.G.N. Nafeez Pasha, S/o Late SGN Gouse Mohiuddin Aged about 38 years, Rio Opp. Dargah Mahal Gate, Mahal Street, A.S. Peta, SPSR Nellore District 524 304.
7. Sri Siddiq Pasha, S/o Late SGN Gouse Mohiuddin Aged about 37 years, R/o Opp. Dargah Mahal Gate, Mahal Street, A.S. Peta SPSR Nellore District 524 304.
8. Smt. Pathan Tahira Begum, W/o Pathan Fayaz Ahmed Aged about 49 years, R/o Opp. Dargah Mahal Gate, Mahal Street, A.S. Peta SPSR Nellore District 524 304.
9. Smt. Pathan Hajira, W/o Pathan Gouse Basha Aged about 35 years, R/o Opp. Dargah Mahal Gate, Mahal Street, A.S. Peta SPSR Nellore District 524 304.
10. Smt. Pathan Husna, W/o Pathan Aleem Aged about 29 years, R/o. Opp. Dargah Mahal Gate, Mahal Street, A.S. Peta, SPSR Nellore District -524 304.

....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of the writ of mandamus declaring the order dt. 30.5.2022 issued by the 3rd respondent and consequential proceeding of the 2nd respondent in F. No. 02/MNLR/2017/Z-IV/Supply dt. 21.6.2022 as illegal, arbitrary.

I.A.No. 2 of 2022 :-

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of W.P., the High Court may be pleased to suspend the order dt. 30.5.2022 of the 3rd respondent and consequential proceeding dt. 21.6.2022 of the 2nd respondent, pending disposal of pending disposal of W.P. 18983 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. M.V.S. Suresh Kumar, learned Senior Counsel appearing on behalf of Aravala Sreenivasa Rao, Advocate for the Petitioner and of the Govt. Pleader for Minority Welfare for respondent No.1 and of Sri Shaik Karumulla-SC for respondent Nos. 2 to 5 and of Sri Srinivasa Rao Narra, Advocate for respondent Nos.6 to 10, the Court made the following

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ORDER :-

“Heard Mr.M.V.S. Suresh Kumar, learned Senior Counsel appearing on behalf of Mr. Aravala Srinivasa Rao, learned counsel for the petitioner, Mr. Shaik Kareemulla, learned Standing counsel for 2nd respondent-Waqf Board and Mr. Narra Srinivasa Rao, learned counsel appearing for the respondents 6 to 10.

The learned Senior Counsel *inter alia* submits that the impugned proceedings, which is consequential to the Order dated 30.05.2022 are without jurisdiction. He submits that though the petitioner sought for a copy of the Order dated 30.05.2022, the same has not been furnished to him.

It is also his submission that the earlier Resolution dated 18.04.2018 delegating the powers to the specific named Chair person would no longer exist on reconstruction of Board and even otherwise also it is only the Wakf Board, which is competent to order for an enquiry under Sections 70 and 71 of the Waqf Act, 1995. The learned Senior Counsel also draws the attention of this Court to the earlier round of litigation, wherein the contesting respondents only sought for appointment of Towliath Committee and no allegations of mismanagement were alleged against the petitioner.

The learned Standing Counsel on the other hand submits that the proceedings dated 18.04.2018 enables the present Chairperson to appoint an Enquiry Officer and therefore is no illegality or irregularity in the appointment of Enquiry Officer.

Mr. Narra Srinivasa Rao, learned counsel appearing for the respondents 6 to 10 submits that the Writ Petition is not maintainable and the petitioner has to work out his remedy before the Waqf Tribunal. He also supports the submission made by the learned Standing Counsel to the effect that the Chairperson is competent to appoint an Enquiry Officer. He also submits that the petitioner instead of facing the enquiry has approached this Court only with a view to preempt the enquiry and the Writ Petition is liable to be dismissed as there are no merits.

The matter requires detailed consideration.

However, in the light of submissions made by the learned Senior Counsel, this Court is satisfied that the appointment of an Enquiry Officer by the Chairperson, *prima facie*, is not sustainable. Therefore, there shall be interim stay of all further proceedings pursuant to the notice dated 21.06.2022, for a period of eight (8) weeks.

List this case after six (6) weeks.

//TRUE COPY//

Sd/- K. SRINIVASA RAJU,
ASSISTANT REGISTRAR


SECTION OFFICER

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To

1. The Secretary, Minority Welfare Department, State of Andhra Pradesh,, Secretariat, Velagapudi, Guntur District.
2. The Chief Executive Officer, Andhra Pradesh State Wakf Board, Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District
3. The Chairperson, A.P. State Waqf Board, Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District
4. K. Nazeer Ahmed Khan, Enquiry Officer, A.P. State Waqf Board Imdad Ghar, Near Kaleswara Rao Market Vijayawada, Krishna District.
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(Addressee Nos. 1 to 10 by RPAD)
11. Two CCs to the G.P. for Minority Welfare, High Court of A.P., at Amaravati.
12. One CC to Sri Aravala Sreenivasa Rao, Advocate(OPUC)
13. One CC to Sri Shaik Karimulla, Standing Counsel(OPUC)
14. One CC to Sri Srinivasa Rao Narra, Advocate(OPUC)
15. One spare copy.

TKK

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HIGH COURT

NJS.J

DT.06-07-2022.

ORDER

W.P.No. 189⁸~~7~~3 of 2022

INTERIM STAY

