

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 4TH DAY OF DECEMBER, 2008,

BEFORE

THE HON'BLE MR. JUSTICE N.K.PATIL

WRIT PETITION No.11335 OF 2007 (GM-R/C)

BETWEEN:

SRI Y PRAFULLA SHETTY
S/O SRI Y HIRIYANNA SHETTY
AGED ABOUT 67 YEARS
MANAGING TRUSTEE
RIAT SRI VISHWESHWARA TEMPLE
YELLURU UDUPI

... PETITIONER

(By Sri : PADUBIDRI MOHAN RAO, ADVOCATE)

AND :

1 STATE OF KARNATAKA
REP. BY THE SECRETARY
TO THE GOVERNMENT OF KARNATAKA
REVENUE DEPT.,
MULTISTOREYED BUILDING
VIDHANA VEEDHI BANGALORE 1

2 COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS
CHAMARAJPET
BANGALORE 18

3 THE DEPUTY COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS UDUPI DIST UDUPI

... RESPONDENTS

(By SMT : A.R. SHARADAMBA, AGA FOR R1-3)

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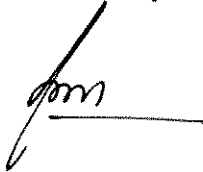
THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS FROM THE R3, DEPUTY COMMISSIONER, HR & CES, UDUPI DIST. UDUPI, RELATING TO CASE NO.DVS.EST (2) CR 44/07-08 AND ALSO RECORDS FROM THE R2, COMMISSIONER FOR HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS, RELATING TO CIRCULAR NO.ADM: 8CR 15/07-08 AND QUASHING THE IMPUGNED NOTIFICATION EVEN NUMBER, DT.13.6.2007, AS PER ANN-A AND GRANTING SUCH OTHER RELIEFS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

Petitioner in this petition, claiming to be the Managing Trustee, has assailed the correctness of the impugned Notification dated 13th June 2007 bearing No.DVS/EST/(2)CR.44/2007-08 vide Annexure A issued by third respondent – Deputy Commissioner, HR & Ces, Udupi District, Udupi and to call for the records relating to the same from the third respondent – Deputy Commissioner, HR & CE, Udupi, Udupi District.

2. The grievance of petitioner in the instant writ petition is that, he claims that, he is the managing trustee of Vishweshwara Temple, which is an ancient



temple being managed and administered by the family of petitioner's hereditary trustees and Archaks and a Committee of Trustees, who are elected by the devotees. Therefore, it is the case of petitioner that, the third respondent has got no power or jurisdiction to issue the impugned Notification, referred above, exercising his power under Section 25 of the Karnataka Hindu Religious and Charitable Endowments Act, 1997 (for short called as " Endowment Act, 1997"). It is the specific case of petitioner that, in spite of striking down of the amended Act by the Division Bench of this Court in Writ Appeal No.3440/2005, the competent authority, without following the circular issued by second respondent to third respondent to exempt some temples from constituting the Committee of Management, has issued the impugned Notification. In spite of the said amendment Act being struck down in the writ appeal by the Division Bench, the impugned Notification is issued. Therefore, the impugned



Notification cannot be sustained and hence it is liable to be set aside. With this background, petitioner herein felt necessitated to present the instant writ petition.

3. I have heard learned counsel appearing for petitioner and learned Additional Government Advocate appearing for respondents.

4. Learned counsel appearing for both parties fairly submitted that, the subject matter involved in the instant case is directly covered by the order passed by this Court dated 27th August 2008 in W.P.No.11459/2008 (*J. Kishore Kumar and another Vs. State of Karnataka and others*). Therefore, they submitted that, the instant writ petition may also be disposed of in terms of the said order passed by this Court.

5. The submission made by learned counsel appearing for the parties, as stated supra, is placed on record.



6. In the light of the submission made by learned counsel for both parties, as stated supra, the writ petition filed by petitioner is disposed of following the order passed by this Court dated 27th August 2008 in W.P.No.11459/2008 (*J. Kishore Kumar and another Vs. State of Karnataka and others*) and for the reasons stated therein.

Sd/-
Judge

BMV*