

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF FEBRUARY
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE P.S.NARAYANA
WRIT PETITION NO : 1705 of 2008

Between:

G.Rajendranath Goud, S/o.Late Sri Jagannath Goud,
Sri Venkateswara Swamy Temple,Chikkadpally,
Hyderabad,R/o.H.No.1-8-497/3, Chikkadpally,Hyd

..... PETITIONER

AND

1. The Govt.Of A.P, Rep.by its Secretary,Revenue (Endts.II)
Department, Secretariat Buildings, at Secretariat, Hyderabad
2. The Commissioner of Endowments, Tilak Road,Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the G.O.Rt. No.32 Revnue(Endts.II) Department dt.02-01-2008 as arbitrary, illegal, violative of Articles 14,16 and 21 of the Constitution of India, principles of natural justice and contrary to the directions of this Hon'ble court in W.P.No.8690 of 2005 and pass such other orders.

Counsel for the Petitioner:MR.K.GOVIND

Counsel for the Respondents 1 and 2: GP FOR ENDOWMENTS

The Court made the following :

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO. 1705 OF 2008

ORDER:

Heard Sri K. Govind, learned counsel representing the writ

petitioner and the learned Government Pleader for Endowments.

2. This Court ordered notice before admission on 18-02-2008. The learned G.P.for Endowments had placed written instructions and also the records before this Court.

3. The writ petition is filed for a writ of Mandamus declaring the G.O.Rt. No.32 Revnue(Endts.II) Department dated 02-01-2008 as arbitrary, illegal, violative of Articles 14,16 and 21 of the Constitution of India, principles of natural justice and contrary to the directions of this Hon'ble court in W.P.No.8690 of 2005 and pass such other suitable orders.

4. Sri K. Govind, learned counsel representing the writ petitioner had taken this court through the order made in W.P.No.8690 of 2005 and would maintain that there is a clear direction that the application of the petitioner dated 12-08-2002 to be disposed of and till the said application is disposed of, the trust board not to be constituted. The learned counsel also would explain that the writ petitioner carried the matter by way of writ appeal in W.A.No.1236 of 2005 only to a limited extent being aggrieved by a portion. But the Endowments Department had not carried the matter by way of writ appeal and hence the said order had attained finality. In view of the same, the present notification was issued calling for applications for the purpose of constitution of trust board being contrary to the order made by this Court in W.P.No.8690 of 2005, the same to be set aside.

5. On the contrary, the learned Government Pleader for Endowments would maintain that the Government is unable to constitute a trust board for sufficiently a long time to the extent in question. Even if the petitioner belongs to the founder member of the family, at the best the petitioner's case may be considered for heading the trust board to be constituted and nothing beyond thereto. The learned G.P.for Endowments also submitted that unfortunately, the representation or

application are not traceable at all and in fact after referring to the judgment in the writ appeal, the petitioner was called upon to produce another application, but the same was not done. The concerned office had made efforts and at present are taking steps to make an appropriate order in this regard within a period of one week and in the peculiar factual situation, inasmuch as the notification said to have been issued would be subject to the result of the orders, which would be made by the Government in the exemption application, no further orders need be passed in relation thereto at this juncture.

6. Heard the counsel.

7. The relevant portion of the order in W.P.No.8690 of 2005 reads as hereunder:

“But, however, taking into consideration the facts and circumstances of the case, since the application of the petitioner is pending from 12-08-2002, I deem it appropriate to direct the Government to dispose of the application before constituting the trust board in the interest of justice. Accordingly, the writ petition is disposed of. No costs.”

8. The matter was carried by way of writ appeal No.1236 of 2005 by the writ petitioner and no doubt the writ appeal was disposed of with certain observations. In the instructions placed before this Court, it is stated that as per the orders made by this Court in W.A.No.1236 of 2005 dated 09-09-2005, the petitioner in writ petition had been requested to furnish a copy of the representation dated 12-08-2002 to the Commissioner within a week's period and the Commissioner had also been requested to examine the application of the writ petitioner soon after its receipt and send report along with the check-list prescribed for exemption cases for taking necessary further action at Government level, for which the matter is held up for the last two or three years. Now, the said representation had been obtained by the CED on 23-02-2008 and it is under active examination for furnishing his report to Government. In the light of the specific stand taken by the respondents, this Court is of the considered opinion that the writ petition be disposed

of directing the first respondent to pass appropriate orders in this regard, i.e. in relation to the exemption prayed for by the writ petitioner to the subject temple within a period of ten days and it is needless to say that in the light of the prior order made by this Court in W.P.No.8690 of 2005, let the first respondent also consider the aspect of the constitution of the trust board in the light of the decision to be taken on the basis of the representation/application of the petitioner praying for exemption.

9. Writ petition is accordingly disposed of. No order as to costs.

P.S.NARAYANA, J.

Dated: 26-02-2008

Rns

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

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