
(2013) 11 KAR CK 0117
In the Karnataka High Court
Case No : MFA No. 32487 of 2013

Chandrashekar and Others

APPELLANT

Vs

The Deputy Commissioner

RESPONDENT

Date of Decision : 29-11-2013

Acts Referred:

Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 —
Section 28

Citation : (2013) 11 KAR CK 0117

Hon'ble Judges : Huvadi G. Ramesh, J

Bench : Single Bench

Advocate : Ashok S. Kinagi, for the Appellant; S.S. Aspalji, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Huvadi G. Ramesh, J.—This appeal is filed by the Members of Managing Committee of Sri Hanuman Temple situate at Shahapur District, Yadgir as per order dated 28.9.2012 - annexure A. By the impugned order dated 26.8.2013 passed by the Commissioner, the Committee has been cancelled. Aggrieved the appellants/Members are seeking to quash the order at Annexure-B. According to the appellants, they were appointed as Members of the Managing Committee and are working as such. However, so far as dissolution of the committee is concerned, the same is subject to the provisions of Section 28 of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 (hereinafter referred to as "the Act" for short). It is the case of the appellants that by the impugned order, the respondent-authority has dissolved the committee appointing the Tahsildar as Administrator in violation of provisions of the Act and accordingly, sought for quashing the same.

2. After hearing the learned counsel appearing for the parties, the substantial question of law that arises for consideration is when the appointment is u/s 25 of the Act, in the absence of requirement of Sections 28 and 29 of the Act, without

issuing notice even before the expiry of the term, whether the State is justified in reconstituting the Committee by dissolving the earlier committee constituted.

3. In this regard, it may be relevant to extract Section 28 of the Act which reads:

Section 28: Power to dissolve the Committee of Management:--

1. The Rajya Dharmika Parishat or Zilla Dharmika Parishat as the case may be shall have power to dissolve a Committee of Management including a member or hereditary trustee if after holding an enquiry in accordance with sub-sec. (2), it is satisfied that the Committee has -

(a) failed to discharge the duties or perform the functions in accordance with the provisions of this Act or the rules made thereunder; or

(b) disobeyed any lawful orders issued under the provisions of this Act or the rules made thereunder by the State Government or the Commissioner, Deputy Commissioner or Assistant Commissioner; or

(c) committed any malfeasance or misfeasance or is guilty of breach of trust or misappropriate in respect of the properties of the institution or endowment;

2. Where the Rajya Dharmika Parishat or the Zilla Dharmika Parishat as the case may be proposes to take action under sub-sec. (1) it shall frame the charge against the chairman and give him an opportunity of meeting such charge or testing the evidence adduced against the charge and of adducing evidence in favour of the Committee including a member or hereditary trustee; and the order of dissolution shall state every charge framed against the committee including a member of hereditary trustee, explanation offered by the Committee including a member or hereditary trustee and the finding on such charge together with the reasons therefore.

3. Pending enquiry under sub-sec. (2) the Rajya Dharmika Parishat or Zilla Dharmika Parishat as the case may be may suspend the committee including a member or hereditary trustee and appoint an. administrator in accordance with S. 20.

In the present case, it appears, the authorities have not issued notice nor any enquiry is held as per Section 28 of the Act and even before completion of term of five years from the date of election, the Deputy Commissioner has passed the impugned orders which are illegal.

In that view of the matter, the order passed by the Deputy Commissioner dated 26.08.2013 at Annexure-B appointing the Tahsildar, Shahapur as Administrator is hereby quashed as there is noncompliance of Section 28 of the Act as noted above. It is for the respondents to do the needful in the matter.

Appeal is allowed accordingly.