

(1995) 09 AP CK 0037

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 43 of 1993

Executive Officer, Toorangi Group Temples

APPELLANT

Vs

Sri Gopal Inani and Others

RESPONDENT

Date of Decision : 28-09-1995

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966
— Section 27(2)

Citation : (1996) 1 ALT 676

Hon'ble Judges : Lingaraja Rath, J; B.K. Somasekhara, J

Bench : Division Bench

Advocate : C.S.K.V. Ramana Murthy, for the Appellant; R. Subhash Reddy and K. Raghuvier Reddy for Respondent No. 1 and Govt. Pleader for Endowments for Respondent Nos. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Lingaraja Rath, J.—The respondent No. 3 in the Writ Petition No. 1430 of 1986 out of which this appeal arises is the appellant. Facts appear in detail in the order under appeal but the bare statements of facts are that the respondent No. 1 is the hereditary trustee of Sri Satyanarayana Swamy Temple, Kakinada, and under a scheme settled by the Madras High Court in A.S. No. 87 of 1946 decided on 15 July, 1949 the hereditary trustee of the institution was recognised as the sole trustee entitled to receive the income, both in cash and kind, and to make the necessary disbursement and is also to remain responsible for performance of Poojas and Services in the Temple. The respondent No. 1 hereditary trustee approached this Court in the writ petition assailing an order of the respondent No. 2 passed in purported exercise of the powers u/s 27(2)(b) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1966 (hereinafter referred to as "the Act") appointing the appellant as the executive officer in respect of the institution and directing him to take possession of the records, accounts, movable and immovable properties, et cetera, and report compliance. In the counter-affidavit filed by the respondent No. 2 supporting the

order passed, various negligence by the respondent No. I were alleged regarding mismanagement of the temple and such reasons to have motivated him to appoint the executive officer.

2. Learned single Judge allowed the application considering that apart from the question of non-compliance of the principles of natural justice, the temple had only Rs. 1,900/- as monthly income and it could not sustain an executive officer.

3. Learned counsel for the appellant submits Section 27 in terms as not requiring any notice to be given before the appointment of the executive officer. Admittedly, the respondent No. I has the subsisting right to manage the affairs of the temple, receive all the income and make disbursements, the rights which were allowed to him under the decree of the Madras High Court. The executive officer appointed to manage the affairs of the temple, to take possession of the records, accounts and all the properties, movable and immovable, would undoubtedly severely affect the interests of the respondent No. I adversely. It is now well settled in law that principles of natural justice are required to be mandatorily complied with in all actions taken by administration or statutory authorities unless the requirement can be said to be excluded either by express provision of the statute or by necessary implication. In other words, to all provisions of the statute under which actions are directed to be taken, compliance of the rules of natural justice are to be regarded as in-built provisions in the statute itself, the only exception being express exclusion of the requirement in the provisions of the statute or such exclusion by necessary implication. It is for this reason alone we would agree with the judgment of the learned single Judge that the order was not one properly passed particularly when the occasion for appointment of the executive officer was the alleged mismanagement of the temple. Discretion vested in the Commissioner to appoint the executive officer has to be judiciously exercised and if it was to be exercised because of defective or negligent management by the respondent No. I, he was to have been heard before any adverse action against him was taken. In that view of the matter, we do not find any merit in the appeal which is dismissed with costs. Advocate's fee rupees one thousand.