
(2011) 01 AP CK 0044
In the Andhra Pradesh High Court
Case No : Writ Petition No. 634 of 2005

Hafiz Syad Saleem Basha

APPELLANT

Vs

A.P. State Waqf Board and Another

RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:

Citation : (2011) 2 ALD 492 : (2011) 2 ALT 1 : (2011) 8 RCR(Civil) 1961

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : P. Veera Reddy, for the Appellant; Mohd. Habeebur Rahman and G.P. for Social Welfare, for the Respondent

Final Decision : Allowed

Judgement

Nooty Ramamohana Rao, J.—This Writ Petition has been instituted by a Kazi, who has been appointed as such by the State of Andhra Pradesh for Kurnool. He calls in question the validity of the Circular dated 30.11.2002 issued by the first Respondent-A.P. State Wakf Board.

2. Sri P. Veerareddy, the learned Counsel for the writ Petitioner, submits that the first Respondent-A.P. State Wakf Board has no power or jurisdiction to deal with any subject matter concerning fee or the related issues liable to be charged by the Kazis for attending to marriages or other religious activities. He has also pointed out that the very same question has been agitated before a Division Bench, pursuant to a reference made by a learned Single Judge in W.P. No. 4701 of 1998, and the Division Bench has rendered its judgment, which has since been reported in Qazi Syed Abdullah Mohammadi and Others Vs. State of A.P. and Another, wherein the Division Bench has held in paragraph 27 as under:

For the reasons mentioned above, and in view of the above conclusions as arrived at, we hold that under the provisions of the Act, no power is conferred either on the State Government or even on the A.P. Wakf Board to deal with, fix or meddle with or otherwise the fee structure in respect of duties or functions of

Kazis or Naib Kazis.

3. The learned Counsel, therefore, submits that the circular dated 30.11.2002 issued by the first Respondent should be declared as illegal in view of the above judgment.

4. Through the circular the A.P. State Wakf Board has attempted to regulate the functions of Kazis by directing them to obtain marriage booklets and sianamas and registers from the Inspector Auditors of Andhra Pradesh State Wakf Board of the respective districts on payment of costs which has been approved by the Government.

5. Though notices have been served, none has chosen to appear and contest this case on behalf of the Respondents.

6. The Division Bench in the aforesaid judgment dealt with the extent of jurisdiction to regulate the activities of the Kazis by the Andhra Pradesh State Wakf Board and also the State of Andhra Pradesh. The Division Bench was called upon to consider the provisions of the Kazis Act, 1880, and then arrived at the aforesaid conclusion. It has held that there is no power conferred either on the State Government or on the Andhra Pradesh Wakf Board to deal with or fix or otherwise regulate the fee structure in respect of duties or functions of Kazis or Naib Kazis. The ratio laid down by the Division Bench binds me and hence, I consider that the impugned circular has been issued by the Andhra Pradesh Wakf Board without realizing that it has no such power conferred on it by the Kazis Act, 1880.

7. In that view of the matter, this Writ Petition is allowed and the Respondents cannot insist on the Kazis to comply with the instructions contained in the impugned circular dated 30.11.2002. No costs.