

(2015) 03 KAR CK 0098

In the Karnataka High Court

Case No : Writ Petition No. 6154 of 2015 (GM-R/C)

Managing Committee

APPELLANT

Vs

The Zilla Dharmika Parishath and Deputy Commissioner and
Others

RESPONDENT

Date of Decision : 19-03-2015

Acts Referred:

Citation : (2015) 3 KarLJ 501 : (2015) 4 KCCR 3718

Hon'ble Judges : S. Abdul Nazeer, J.

Bench : Single Bench

Advocate : Narasimha Murthy G.V., for the Appellant; Sachin B.S., Advocates for the Respondent

Final Decision : Allowed

Judgement

S. Abdul Nazeer, J.—The Zilla Dharmika Parishath, Hassan appointed the members to the Managing Committee of Sn. Kenchamba Temple at Harihalli Village Hassan District, under Section 25 of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 ("the Act" for short). Respondent No. 1 passed an order at Annexure-A dated 24.08.2013, dissolving the Committee of Management of the aforesaid temple and appointing a Tahasildar as its administrator. The petitioner has called in question the validity of the said order in this writ petition.

2. I have heard the learned counsel for the parties.

3. Learned counsel for the petitioner would contend that the Committee of management was appointed by the Zilla Dharmika Parishat to manage the affairs of the temple in question. The Committee has been managing the affairs of the temple without any blemish. Respondent No. 1 has dissolved the Committee without any reason and without holding an enquiry as provided under Section 28 of the Act.

4. On the other hand, learned counsel appearing for respondent No. 1 submits

that the term of the members of the Managing Committee is subject to the pleasure of the Zilla Dharmika Panshat or for a period of three years whichever is earlier unless in the meantime the Committee is dissolved or has ceased to function. In support of his contention he has drawn my attention to Section 26 of the Act. Since they were holding the office at the pleasure of the Zilla Dharmika Panshat, the question of holding an enquiry contemplated under Section 28 of the Act does not arise.

5. I have carefully considered the argument of the learned counsel made at the bar and perused the materials placed on record.

6. Section 25 of the Act authorizes the Zilla Dharmika Parishat to constitute the Committee of Management of the temple. Section 26 of the Act provides for term of office of the Committee of Management and election of chairman. Subsection (1) of section 26 of the Act states that subject to the pleasure of the Rajya Dharmika Panshat or Zilla Dharmika Panshat as the case may be, members shall hold the office for a term of three years unless in the meanwhile the Committee is dissolved or has ceased to function.

7. It is clear from this provision that a member of the Committee has to hold the Office subject to the pleasure of the Zilla Dharmika Parishat or for a period of three years whichever is earlier unless the Committee is dissolved or ceases to function in the meanwhile.

8. A perusal of the order impugned makes it clear that the Committee of Management itself has been dissolved. Section 28 of the Act, states that Rajya Dharmika Panshat or Zilla Dharmika Panshat, 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-section (2), it is satisfied that the Committee has failed to discharge the duties or perform the function in accordance with the provisions of the Act or the Rules made thereunder or disobeyed any lawful orders issued under the provisions of the Act or the Rules made thereunder by the State Government or the Commissioner, Deputy Commissioner or Assistant Commissioner are committed any malfeasance or misfeasance or is guilty of breach of trust or misappropriation in respect of the properties of the institution or endowment.

9. In the present case, it is not the case of respondent No. 1 that the Committee of Management has failed to discharge its duties or disobeyed the lawful orders or committed malfeasance, misfeasance, etc. It has dissolved the Committee without any reason. It is also clear that no enquiry has been held in accordance with Sub-section (2) of Section 28 of the Act. Thus, the impugned order has been passed in violation of Section 28 of the Act.

10. In the result, the writ petition succeeds and is accordingly allowed. The order passed by respondent No. 1 at Annexure-A dated 24.08.2013 insofar as the petitioner concerned is hereby quashed. It is hereby clarified that this order shall not preclude respondent No. 1 from taking action against the members of the

Committee in accordance with law. No costs.