(2010) 11 KL CK 0250

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5413 of 2010 (B)

Ravindranathan Nair APPELLANT

Vs

The Malabar Devaswom Board and Others RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Citation : (2010) 11 KL CK 0250

Hon'ble Judges : Thottathil B. Radhakrishnan, J;P. Bhavadasan, J

Bench : Division Bench

Advocate : Mohan C. Menon, for the Appellant; P.K. Suresh Kumar, for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—The Petitioner challenges Ext. P5 whereby the decision of the Area Committee under the Hindu Religious and Charitable Endovements Act, 1951 to appoint Respondents 3 and 4 as non-hereditary trustees of Thrikkanamukku Siva Kshetram is issued.

2. The Petitioner states that Respondents 3 and 4 were in the committee of Respondent No. 5 and had committed different acts of financial mis-management in connection with the collections made for the purpose of the ''Naveekarana Kalasam'' of March, 2002. This writ petition is filed in 2010 immediately after the impugned Ext.P5 order was issued. While the Petitioner says that he had been making different representations to various authorities about the mis-deeds of Respondents 3 and 4, we are not impressed to hold that, at this distance of time, this Court should sit in judgment on disputed facts as regards the conduct and accounting of income and expenditure in relation to ''Naveekarana Kalasam'' of March 2002.

3. In this writ petition we had requested the learned Ombudsman for TDB and CDB to act as Special Officer to hear the parties and to make a report to us. The learned Ombudsman heard the parties and made MDB Report No. 102 of 2010. Looking at that report we find that the learned Ombudsman has rightly stated

that the Petitioner had unnecessarily delayed in making a complaint about the financial issues relating to the ''Naveekarana Kalasam''. We are in complete agreement with the learned Ombudsman that the materials could lead to different conclusions. It could be that there were bonafide mistakes by Respondents 3, 4 and 5. It could also be that the Petitioner was also privy to certain acts. Respondents 3 and 4 also stated that they were not office bearers of Respondent No. 5. Ultimately, it could also be that there is no mismanagement of funds though there is lack of materials on the basis of which the accounts could be settled. We note this in terms of the report of the learned Ombudsman, to refrain from commending anything finally on this issue.

4. At any rate, we are satisfied that the allegations and the materials, including those disclosed in the proceedings before the learned Ombudsman under the orders of this Court, are insufficient to interfere with the impugned Ext.P5.

5. However, we are of the view that the MDB authorities have to bestow appropriate attention to the contents of MDB Report No. 102 of 2010 submitted by the learned Ombudsman and consider whether any action is called for in relation to any matter stated therein. The MDB authorities would also consider any other complaint by any of the parties in relation to the temple in question, without delay.

6. In the result, while refusing to set aside Ext. P5, we order the MDB authorities to do the needful in terms of what is stated in the immediately preceding paragraph. We clarify that we have not expressed anything on the merits of the rival contentions.

7. The MDB Report No. 102 of 2010 of the learned Ombudsman will stand appended to this judgment. We further order that the Fixed Deposit Receipt provided in sealed cover by the learned Ombudsman will be perused by the Registrar Judicial and returned under proper receipt to the person/authority in whose name it stands. We also acknowledge the effort taken by the learned Ombudsman in the matter.

Writ petition ordered accordingly.

