

(2002) 05 KAR CK 0040
In the Karnataka High Court
Case No : Writ Petition No. 20162 of 2002

Ritti Vaidraj Achar and Others

APPELLANT

Vs

Commissioner for Hindu Religious Institutions and Charitable
Endowments, Government of Karnataka and Others

RESPONDENT

Date of Decision : 03-05-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 KCCR 1770

Hon'ble Judges : K.L. Manjunath, J;K. Ramanna, J

Bench : Division Bench

Advocate : R. Narayana, for the Appellant; V.Y. Kumar, High Court Government
Pleader for Respondent 1, for the Respondent

Final Decision : Dismissed

Judgement

K.L. Manjunath, J.—This petition is filed by way of public interest litigation. Petitioners claim that they are the devotees of Sri Raghavendra Swamy Mutt of Mantralaya. In this writ petition, Petitioners have requested this Court to restrain Respondent-1 from recognizing Respondent-3 as the successor of Respondent-2 and also to restrain Respondent-1 from entertaining any petitions or applications or proceedings from any one seeking recognition of Respondent-3 as successor of Respondent-2 and also to restrain Respondent-2 and 3 from holding out, announcing or acting in any manner to the effect that Respondent-3 is the successor of Respondent-2 and to issue such other directions which may be necessary in the interest of justice.

2. Sri Raghavendra Swamy Mutt is situated in Mantralaya at Kurnool District of Andhra Pradesh. The Mutt has got large number of devotees not only in Andhra Pradesh but also in various States and more number of devotees are there in the State of Karnataka and Tamil Nadu. About 350 years ago, a Pontiff by name Sri Raghavendra Swamy who is said to be a reincarnation of Sri Bhakta Prahlada has entered into Jeeva Samadhi where a Brindavan has been constructed. Sri

Raghavendra Swamy has attracted large number of devotees and the devotees still believe that he is still alive in Samadhi and he is considered as Kamadhenu of Kaliyuga. The belief of the devotees of Sri Raghavendra Swamy is that Lord will wipe off and cure all sufferings of the devotees and grant prayers. It is also gazetted during the British Regime the Britishers made an attempt to resume the lands of Sri Raghavendra Swamy Mutt one Sir Thomas Munroe was sent by the Britishers to take possession of the lands of the Mutt. When Sir Thomas Munroe went to Mantralaya to resume lands of the Mutt, the story is that Sri Raghavendra Swamy came out of the Brindavan and spoke to Sir Thomas Munroe and he was blessed by Lord Raghavendra. Ultimately, the British Government dropped the idea of resuming the lands of the Mutt and this story has been gazetted by the British Government.

3. According to the Petitioners, successor of Respondent-2 has to be appointed or nominated in accordance with the traditions of the Mutt and the successor should be a Goutama Gotra in the paternal lineage of Sri Raghavendra Swamy and that he should be a devotee of Sri Raghavendra Swamy and he should also be a scholar in vedas and shastras. It is contended by the Petitioners' Counsel that Respondent-2 contrary to the customs of the Mutt has appointed or nominated Respondent-3 as successors on 4.4.2002 at Udupi and that Respondent-3 is not eligible to become a successor of Respondent-2. According to them, appointment of Respondent-3 is questioned before the Commission of Endowments at Hyderabad and they apprehend that Respondent-2 and Respondent-3 may make an application before Respondent-1 for recognizing Respondent-3 as the successor of Respondent-2. So, in the circumstances, they have presented this writ petition by way of public interest litigation.

4. We have heard the learned Counsel for the Petitioners and so also the Government Pleader.

5. Having heard the learned Counsel for the parties, what is required to be considered in this writ petition are:

* When the Mutt is situated at Mantralaya of Andhra Pradesh and when the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act of 1987 is applicable, Whether Respondent-1 has got any right to recognize Respondent-3 as successor to Respondent-2?

* When the Mutt is situated within the territorial limits of Andhra Pradesh, whether the Petitioners can present this writ petition either challenging the appointment of Respondent-3 as his successor, or to prohibit Respondent-1 to recognize Respondent-3 as successor?

* Whether the appointment of Respondent-3 as successor of Respondent-2 can be questioned by the Petitioners in this writ petition?

6. According to the Petitioners, Sri Raghavendra Swamy Mutt of Mantralaya is governed by the provisions of the Andhra Pradesh Charitable and Hindu Religious

Institutions and Endowments Act, 1987. The apprehension of the Petitioners before this Court is that Respondent-2 and 3 may make an application before the Commissioner for Hindu Religious Institutions and Charitable endowments of Karnataka and that Respondent-1 may recognize Respondent-3 as the successor to Respondent-2. Petitioners have not placed any material before us to show that either Respondent-2 or Respondent-3 has made any application before Respondent-1 to recognize Respondent-3 as the successor of Respondent-2. Except making bald allegations in the body of the writ petition, Petitioners have not placed any material before us. When the Petitioners themselves have admitted before us that Sri Raghavendra Swamy Mutt is governed by the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, Respondent-1 who is the Commissioner for Hindu Religious Institutions and Charitable Endowments of Karnataka cannot entertain any application of Respondent-2 or Respondent-3. Even if the applications of Respondent-2 or Respondent-3 is received by Respondent-1, Respondent-1 has no powers under the Mysore Religious and Charitable Institutions Act of 1927 to recognize Respondent-3 as the successor of Respondent-2 as Respondent-1 has no powers to grant such recognition. The powers of Respondent-1 is only to act in accordance with the Mysore Religious and Charitable Institutions Act of 1927 and that he cannot exercise any power in respect of the Mutt situated outside the State of Karnataka. In the circumstances, we are of the opinion that Respondent-1 cannot entertain such an application and even if such application is entertained by Respondent-1 and if any order were to be passed by Respondent-1, such order will be illegal in the eyes of law and it will be without jurisdiction. Therefore, we are of the opinion that the apprehension of the Petitioners that Respondent-1 may recognize Respondent-3 as the successor of Respondent-2 is only a mis-apprehension or mis-conceived.

7. Then the next question that arises for our consideration is whether the Petitioners can challenge the appointment of Respondent-3 as successor of Respondent-2 on the ground that Respondent-2 has not followed the customs prevailed in the Raghavendra Swamy Mutt to appoint the successor of Respondent-2. In the first place, Petitioners petition is not maintainable as the Mutt itself is situated within the State of Andhra Pradesh. Even otherwise, how Respondent-2 has to nominate or appoint his successor is a matter to be gone into before the appropriate authority or before the Civil Court to know the eligibility criteria of the successor of Respondent-2. This Court, sitting under Article 226 of the Constitution of India, cannot entertain a petition by way of public interest litigation to adjudicate the eligibility criteria of Respondent-3. What customs are to be followed has to be pleaded and proved before the competent authority or before the regular Civil Court. Since this Court cannot entertain the writ petitions against a Mutt situated outside the State of Karnataka, question of considering the said issue will not arise at all. Learned Counsel for the Petitioners submitted that the matter is already pending before the Commissioner for Endowments at Hyderabad. When the matter is ceased

before the competent authority under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act of 1987, even if the Petitioners are aggrieved, they have to approach the said authorities or the High Court of Andhra Pradesh. If the Petitioners are so desirous to pursue their grievance, they are at liberty to do so. In the circumstances, we see no merits in the writ petition.

8. Accordingly, this petition is dismissed.