(2014) 12 AP CK 0039

In the Andhra Pradesh High Court

Case No : Writ Petition Nos. 29189, 29264, 29317, 29453, 29455, 29474, 29475, 29499, 29556, 30168, 30674, 30688, 30692, 31352, 31445, 31551, 31640, 31652, 31677, 31692, 32020, 32246, 32255, 32578 and 32584 of 2014

S. Timmaiah APPELLANT

Vs

The State of Andhra Pradesh RESPONDENT

Date of Decision : 30-12-2014

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 — Section 15, 15(1), 15(2), 17, 17(2)
Constitution of India, 1950 — Article 13(2), 14, 16, 25, 26

Citation : AIR 2015 AP 78 : (2015) 4 ALD 534 : (2015) 3 ALT 368

Hon'ble Judges : Kalyan Jyoti Sengupta, C.J;Sanjay Kumar, J

Bench : Division Bench

Advocate : R. Raghunandan Rao, Senior Counsel, Advocate for the Appellant

Judgement

Sanjay Kumar, J.—The petitioners in this batch of cases were appointed as Chairpersons and/or Trustees on the Boards of various temples in the erstwhile combined State of Andhra Pradesh. Such appointment was effected under the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for brevity, the Act of 1987). Their common grievance in these cases is with the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2014 (Act No. 8 of 2014), enacted by the bifurcated new State of Andhra Pradesh, in so far as it introduced Section 163 in the Act of 1987. This provision is assailed on the ground that it is illegal, arbitrary and a colourable exercise of power, contrary to the provisions of the Constitution and the Act of 1987.

2. By way of Act No. 8 of 2014, the new State of Andhra Pradesh effected certain changes in Sections 15 and 96 of the Act of 1987 and introduced Section 163 therein. The grievance canvassed presently is as regards this new provision. Section 163 reads as under:

"163. Notwithstanding anything contained in the Principal Act, all the Chairpersons and Members of the Trust Boards of all Institutions including TTDs holding office at the commencement of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2014 shall cease to hold office forthwith and thereupon it shall be competent for the Government to appoint a person or persons to exercise the powers and perform the functions of the Boards of Institutions including TTDs till new Trust Boards are reconstituted and Chairman/Members are appointed in accordance with the provisions of Sections 15 and 96 of the Principal Act as amended by this Act."

3. Given the multiplicity of pleadings, it would suffice to refer to the affidavit filed in support of Writ Petition No. 29264 of 2014, which comprehensively covers the gamut of the grounds of challenge urged by the petitioners against the impugned provision. The petitioner in this writ petition was appointed Chairman of the Trust Board of Sri Veerabhadra Swamy Vari Devasthanam, Lepakshi Village and Mandal, Hindupur Taluk, Ananthapur District. His appointment as a Trustee took place in December, 2013 and he was elected Chairman of the Board thereafter. His term as a member of the Trust Board is till December, 2015 as per Section 17(2) of the Act of 1987. Sri Veerabhadra Swamy Vari Devasthanam, Lepakshi, is a temple classified under Section 6(b)(ii) of the Act of 1987. The Commissioner of Endowments is therefore the competent authority to constitute its Board of Trustees as per Section 15 of the Act of 1987. The petitioners appointment was accordingly effected by the Commissioner of Endowments of the erstwhile combined State of Andhra Pradesh. While so, by way of the impugned amendment and introduction of Section 163 in the Act of 1987, the present State of Andhra Pradesh decreed that the Chairpersons and members of all the Trust Boards of all temples holding office at the commencement of Act No. 8 of 2014 shall cease to hold office forthwith and thereupon, it shall be competent for the Government of the present State of Andhra Pradesh to reconstitute new Trust Boards and until such time, to appoint a person or persons to exercise the powers and perform the functions of such Boards. The petitioner challenges this legislative action on the ground that there was no justification for terminating the Trust Boards constituted as per the provisions of the Act of 1987 whereby a statutory right vested in those appointed to continue in office, as per Section 17 of the Act of 1987, for a term of two years unless removed as per the procedure prescribed under Section 28 thereof.

4. The newly introduced Section 163, which has overriding effect in view of the non obstante clause, is stated to be a colourable exercise of power as it has the effect of terminating all existing Trust Boards indiscriminately without reference to Sections 17 and 28 of the Act of 1987. The petitioner contends that no reference was made to the object sought to be achieved, either in the interest of the temples or the devotees thereof, by introduction of the impugned provision in the statute. The petitioner alleges that the same is a misuse of legislative power and is intended to gain political ends owing to the change in the political scenario. The petitioner also attacks the motive in increasing the number of

Trustees in each Board. He further contends that even if such amendment is to be effected, it could be done only prospectively and could not be applied with retrospective effect so as to terminate the existing Trust Boards without just cause. He alleges that the subject exercise amounts to naked discrimination as persons suited to the interests of the members of the present ruling party are sought to be accommodated by removing the existing Trust Board members. The petitioner further alleges that the Amendment Act amounts to interference in the administration of the temples and is violative of Articles 14, 25 and 26 of the Constitution. The petitioner asserts that the impugned provision retrospectively cuts short the statutory right which vested in the petitioner under Section 17 of the Act of 1987 and unless it survives the test envisaged by Article 13(2) of the Constitution, it has to be declared as illegal and unconstitutional.

5. The impugned provision is also challenged on the ground that it creates two classes of Trust Board members those appointed prior to the impugned amendment and those appointed thereafter. The petitioner points out that by virtue of Section 163, those appointed prior to the amendment are denied the protection of Section 28 of the Act of 1987, which prescribes the procedure for cutting short the statutory term of a Trust Board member, while those appointed thereafter would continue to enjoy such statutory protection. This denial of statutory protection to one class of Trust Board members is stated to be arbitrary and violative of Article 14. The petitioner alleges that there is no intelligible differentia between the two classes and the distinction sought to be effected between them without rationale offends the constitutional scheme, which requires reasonable and equal treatment of all by the State.

6. Reiterating the thrust of the aforementioned pleadings, Sri R. Raghunandan Rao, learned senior counsel who led arguments on behalf of the petitioners in the batch, contends that the scheme of the Act of 1987 substantially remained unchanged despite the limited amendments effected under Act No. 8 of 2014. He points out that the appointing authorities remained the same for different classes of temples under Section 6 of the Act of 1987 and that by way of the amendments effected to Section 15 of the Act of 1987, only the number of Trustees was enhanced. He asserts that in this situation, it was not at all necessary to remove the existing members of the Trust Boards as all that was required was to supplement the existing members by appointing new members to satisfy the enhanced numbers. He reiterates that creation of two classes of Trust Board members under Section 163 results in discrimination between identically situated classes without there being any intelligible differentia. He further contends that the vested right of tenure under Section 17 of the Act of 1987 was sought to be taken away by way of the retrospective operation of Section 163, which was given overriding effect. He would conclude by asserting that Section 163 cannot withstand constitutional and legal scrutiny and is therefore liable to be struck down being a colourable exercise of legislative power.

7. Counter-affidavits having been filed in most of the cases, the learned

Advocate General for the State of Andhra Pradesh would recapitulate the contents thereof. It is his argument that the impugned provision does not offend any other provision of the statute, viz, the Act of 1987, or any Constitutional provision. Reference is made to various provisions of the Act of 1987 and he states that all that the amendment did was to substitute the existing Sub-section (1) of Section 15, whereby temples were segregated on their annual income. Temples in the new State of Andhra Pradesh with an annual income exceeding Rs. 20.00 crore are stated to be 7 in number; those with annual income between Rs. 5.00 and Rs. 20.00 crore are 6 in number; those with annual income ranging between Rs. 1.00 crore and Rs. 5.00 crore are 49; those with annual income ranging from Rs. 25.00 lakh to Rs. 1.00 crore are 115; those with annual income ranging between Rs. 2.00 lakh and Rs. 25.00 lakh are 1,597; and lastly, temples with less than Rs. 2.00 lakh annual income are 22,060.

8. The right of all the petitioners to be considered for appointment afresh as non-hereditary Trustees is stated to be intact and it is pointed out that the amendment did not preclude them from applying again pursuant to a fresh notification in that regard. The learned Advocate General states that pursuant to the substitution of Section 15, a fresh notification necessarily has to be issued depending upon the temple income as otherwise, it would amount to a person being a Trustee of a particular temple whose income did not fit into any of the categories envisaged under the new Section 15(1) of the Act of 1987. He further states that one can only be a non-hereditary Trustee of a temple depending upon the income of the temple and as this categorization had undergone a change, fresh constitution of Trust Boards has to take place and therefore, Section 163 was inserted to facilitate the same. He submits that it was by a fiction that all the Trustees ceased to hold office owing to the income criteria and that upon issuance of a new notification they could apply and get appointed to the Trust Boards depending upon the income categorization under the amended Section 15 of the Act of 1987.

9. Reply affidavits having been filed by some of the petitioners in the batch, they reiterate therein their attack against the impugned provision and pray for the writ petitions to be allowed. They point out that there were no allegations against any of the existing Trustees and mere increase in the number of Trust Board members could not be justification to penalize them by casting them out of office en masse. The impugned provision is castigated as a colourable exercise of legislative power offending the principles of fair play and equality enshrined in Article 14 of the Constitution.

10. Be it noted that prior to its promulgation, Act No. 8 of 2014 was preceded by Ordinance No. 3 of 2014 which was challenged before this Court by most of the petitioners in these cases. However, during the pendency of those writ petitions, the said Ordinance culminated in Act No. 8 of 2014 and the pending writ petitions were closed leaving it open to the petitioners therein to challenge the subsequent enactment. Hence, these cases.

11. Being satisfied prima facie that the impugned legislation could not be given retrospective operation, this Court passed interim orders in all the cases directing the respondents to maintain status quo as on the date of passing of such individual orders.

12. Though raised in the pleadings, the challenge to the increase in the number of Trustees; the alleged violation of Articles 25 and 26 of the Constitution; and the allegation that the impugned amendment is a colourable exercise, were not pressed by Sri R. Raghunandan Rao, learned senior counsel, during his arguments. We are thus not called upon to decide these issues, which are accordingly eschewed from consideration.

13. The petitioners grievance now before us is solely against the newly inserted Section 163 in the Act of 1987. It would therefore be apposite to analyze the same in the backdrop of other provisions in the Act of 1987. The relevant provisions are:

"Section 6. Preparation and publication of list of charitable and religious institutions and endowments on the basis of income:--

The Commissioner shall prepare separately and publish in the prescribed manner, a list of-

(a) (i) the charitable institutions and endowments; or

(ii) the religious institutions and endowments other than maths;

whose annual income as calculated for the purpose of levy of contribution under Section 65 exceeds rupees twenty five lakhs;

(b) (i) the charitable institutions and endowments;

(ii) the religious institutions and endowments, other than maths;

whose annual income calculated as aforesaid exceeds rupees two lakhs but does not exceed rupees twenty five lakhs;

(c) (i) the charitable institutions and endowments; or

(ii) the religious institutions and endowments other than maths not falling under clause (a) or clause (b);

(d) the maths irrespective of the income;

(e) the Dharmadayam irrespective of the income; Provided that the Commissioner may alter the classification assigned to an institution or endowment in the list and enter the same in the appropriate list in case the annual income of such institution or endowment calculated as aforesaid exceeds or falls below the limits specified in clause (a) or clause (b) or clause (c) for three consecutive years."

14. Section 15 of the Act of 1987, as it stood prior to its amendment under Act

No. 8 of 2014, reads as under:

Section 15. Appointment of Board of Trustees:--

In respect of a Charitable or Religious Institution or Endowment,-

"(1) included in the list published under clause (a) of Section 6, where the income for the Institution exceeds Rupees one crore per annum, the Government shall constitute a Board of Trustees consisting of nine persons appointed by them; where the income of the institution is between Rs. 25 lakhs to Rupees one crore per annum, the Dharmika Parishad shall constitute a Board of Trustees consisting of nine persons.

(2) Where the income of the institution is between Rs. 2.00 lakhs to Rs. 25 lakhs per annum, the Commissioner shall appoint a Board of Trustees consisting of five persons and where the income of the institutions is less than Rs. 2.00 lakhs per annum, the Deputy Commissioner concerned may constitute a Board of Trustees consisting of three persons in respect of each such temple keeping in view the traditions, sampradayams and wishes of the devotees:

"Provided that the Deputy Commissioner may either in the interest of the institution or endowment or any other sufficient cause or for reasons to be recorded in writing appoint a single trustee instead of a Board of Trustees:

Provided further that in the case of a religious institution, the Archaka or where there is more than one Archaka, the Pradhana Archaka thereof shall be an ex-officio member of the Trust Board notwithstanding clause (g) of sub-section (1) of Section 19:

Provided also that where the Board of Trustees is not constituted for any reason, the recognized founder or Member of the founder''s family shall discharge the functions of the Board of trustees till a new Board of Trustees is constituted:

Provided also that where there is no Executive Officer or Founder Family member to any institution or where the Government or the authority competent to constitute a Trust Board has not constituted the Trust Board within the period specified under this sub-section, the Commissioner shall make such arrangement as he deems fit to look after the affairs of the institution during the interregnum period between the date of expiry of the terms of the Trust Board and constitution of the new Trust Board:

Provided also that one of the members of the Board of Trustees shall be a prominent donor with a long track record of Philanthropy and support to Hindu Religious Institutions."

15. By way of the amendment through Act No. 8 of 2014, the following changes were effected:

In Section 15, -

(i) for sub-section (1), the following shall be substituted, namely,-

(1) Any institution included in the list published under clause (a) of section 6,-

(i) where the income for the institution exceeds Rs. 20.00 crores (Rupees Twenty Crores) per annum, the Government shall constitute a Board of Trustees consisting of fifteen (15) persons;

(ii) where the income for the institution is between Rs. 5.00 crores (Rupees Five Crores) to Rs. 20.00 crores (Rupees Twenty Crores) per annum, the Government shall constitute a Board of Trustees consisting of eleven (11) persons;

(iii) where the income for the institution is between Rs. 1.00 crore (Rupees One Crore) to Rs. 5.00 crores (Rupees Five Crores) per annum, the Government shall constitute a Board of Trustees consisting of nine (9) persons;

(iv) where the income for the institution is between Rs. 25.00 lakhs (Rupees Twenty Five Lakhs) to Rs. 1.00 crore (Rupees One Crore) per annum, the Andhra Pradesh Dharmika Parishad shall constitute a Board of Trustees consisting of nine (9) persons.

(ii) in sub-section (2),-

(a) in the opening paragraph, for the words five persons, the words seven persons and for the words three persons, the words five persons shall respectively be substituted;

(b) for the fifth proviso, the following shall be substituted, namely:--

provided also that two members of the Board of Trustees shall be prominent persons with a long track record of philanthropy and support to Hindu Religious Institutions."

16. The effect and impact of the changes aforestated shall be dealt with hereinafter.

17. Other provisions of the Act of 1987, germane for our purpose, are extracted below:

"Section 17. Procedure for making appointments of trustees and their term:--

(1) In making the appointment of trustees under Section 15 the Government, the Commissioner, the Deputy Commissioner or the Assistant Commissioner as the case may be, shall have due regard to the religious denomination or any such section thereof to which the institution belongs or the endowment is made and the wishes of the founder:

Provided that the founder or one of the members of the family of the founder, if qualified as prescribed shall be appointed as one of the Trustees.

Explanation I:- ''Founder'' means,-

(a) in respect of Institution or Endowment existing at the commencement of this Act, the person who was recognized as Hereditary Trustee under the Andhra

Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 or a Member of his family recognized by the Competent Authority;

(b) In respect of an Institution or Endowment established after such commencement, the person who has founded such Institution or Endowment or a member of his family and recognized as such by the competent authority.

Explanation II:- "Member of the family of the founder" means children, grand children and so in agnatic line of succession for the time being in force and declared or recognized as such by the relevant appointing authority.

Explanation III:- Those persons who founded temples by collecting donations partly or fully from the public as well as those who founded them on public lands shall not be recognized as founder trustees by any means.

(2) Every trustee appointed under Section 15 shall hold office for a term of two years from the date of taking oath of office and secrecy.

Provided that every trustee who completed a term of office of one year at the commencement of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2000 shall cease to hold office forthwith and every trustee whose term of office exists after such commencement shall continue to hold office for a period of two years from the date of taking oath of office and secrecy.

Explanation:- Where the oath of office and secrecy are administered on different dates, the period of two years shall be reckoned from the earlier of those dates for the purpose of this subsection.

(3) The procedure for calling for application for appointment of trustees, verification of antecedents and other matters shall be such as may be prescribed.

(4) No person shall be a trustee in more than one Board of Trustees.

(5) In every Board of Trustees, there shall be at least one woman member and one member belonging to the Scheduled Castes or the Scheduled Tribes whose population is larger in the concerned village and one member belonging to Backward Classes:

Provided that it shall not be necessary to appoint-

(a) a woman member where any person appointed to represent the Scheduled Castes or the Scheduled Tribes or the Backward Classes is a woman;

(b) a member of the Scheduled Castes or the Scheduled Tribes where any woman member appointed belongs to the Scheduled Castes or the Scheduled Tribes;

(c) a member of the Backward Classes where any woman member appointed belongs to the Backward Classes.

(6) All properties belonging to a charitable or religious institution or endowment, which on the date of commencement of this Act, are in the possession or under the superintendence of the Government, Zilla Praja Parishad, Municipality or other local authority or any company, society, organization. Institution or other person or any committee, superintendent or manager appointed by the Government, shall, on the date on which a Board of Trustees is or is deemed to have been constituted or trustee is or is deemed to have been appointed under this section, stand transferred to such Board of Trustees or trustee thereof, as the case may be and all assets vesting in the Government, local authority or person aforesaid and all liabilities subsisting against such Government, local authority or person on the said date shall, devolve on the institution or endowment, as the case may be.

Section 28. Suspension, removal or dismissal of trustee:--

(1) The authority competent to appoint a trustee may suspend, remove or dismiss a trustee if he-

(a) fails to discharge the duties and perform the functions of a trustee in accordance with the provisions of this Act or the rules made thereunder:

(b) disobeys any lawful order issued under the provisions of this Act or the rules made thereunder, by the Government or the Commissioner or the Additional Commissioner, or the Regional Joint Commissioner or the Deputy Commissioner or the Assistant Commissioner;

(c) refuses, fails or delays to handover the property and records in his possession relating to the institution or endowment to his successor or any other person authorized in this behalf;

(d) commits any malfeasance or misfeasance or is guilty of breach of trust or misappropriation in respect of the properties of the institution or endowment;

(e) becomes subject to any of the disqualifications specified in Section 19; or

(f) in the case of a religious institution or endowment, ceases to profess Hindu religion.

(2) Where it is proposed to take action under sub-section (1), the authority competent to appoint the trustee shall frame a charge against the trustee concerned and give him an opportunity of meeting such charge, of testing the evidence adduced against him and of adducing evidence in his favour and the order of suspension, removal or dismissal shall state every charge framed against trustee, his explanation and the finding on such charge, together with the reasons therefor.

(3) Pending disposal of any charge framed against a trustee, the authority competent to appoint the trustee may suspend the trustee and appoint a fit person to discharge the duties and perform the functions of the trustee."

18. Reconnaissance of the above statutory scheme would demonstrate that while appointing Trustees the competent authority is required to have due regard to the religious denomination to which the temple belongs and the wishes of its founder (Section 17). Further, to be qualified for appointment as a Trustee, the incumbent is to fulfill the qualifications set out in Section 18.

19. Notably, these provisions were not touched by way of the amendments effected under Act No. 8 of 2014. All that was done thereunder was a change of categorization of temples falling within the ambit of Section 6(a) of the Act of 1987. Hitherto, under Section 15(1) of the Act of 1987, such temples whose annual income exceeded Rs. 25.00 lakhs but were less than Rs. 1.00 crore per annum were set apart from temples whose annual income exceeded Rs. 1.00 crore. By substitution of Section 15(1), this division into two categories was amended, whereby four categories were introduced. The first new category is temples with an annual income exceeding Rs. 20.00 crore for which the Government is the competent authority for appointing a Board of Trustees consisting of 15 members; the second new category is temples with an annual income between Rs. 5.00 crore and Rs. 20.00 crore for which the Government will constitute a Board of Trustees comprising 11 members; the third new category is temples with an annual income ranging between Rs. 1.00 crore and Rs. 5.00 crore and the Government is competent to constitute a Board of Trustees with 9 members and the last new category is temples with an annual income between Rs. 25.00 lakhs and Rs. 1.00 crore for which the Andhra Pradesh Dharmika Parishad is the competent authority for constituting a Board of Trustees with 9 members.

20. By way of Act No. 8 of 2014, Section 15(2) was also amended whereby the number of members in Trust Boards for temples falling under Sections 6(b) and 6(c) of the Act of 1987 was also increased. For temples falling within Section 6(b), the number of Trust Board members was increased from 5 to 7 and for Section 6(c) temples, the number of members grew from 3 to 5. By way of the new fifth Proviso to Section 15, two members of the Board of Trustees, instead of the earlier one member, were required to be prominent persons with a long track record of philanthropy and support to Hindu Religious Institutions. Earlier, the one member categorized under this Proviso was also required to be a prominent donor but that requirement has been done away with and the present two members falling under this category are only required to be prominent persons and not donors. Section 96 of the Act of 1987 dealing with Tirumala Tirupathi Devasthanams was also amended, but the same is of no relevance presently.

21. The bone of contention is the new Section 163introduced in the Act of 1987. This provision admittedly cuts short the tenure of the existing Chairpersons and members of Trust Boards as their terms ceased automatically thereunder, making way for the present State of Andhra Pradesh to constitute new Trust Boards for all the temples. This provision invariably distinguishes between the existing Trust Board members, as a separate class targeted thereunder, as opposed to future

Trust Board members who would not be subjected to the same treatment.

22. The question is whether there is any intelligible differentia between these two classes of Trust Board members satisfying Article 14 of the Constitution, which permits reasonable classification.

23. Having given our earnest consideration to the matter, we are of the opinion that such is not the case. As pointed out earlier, the qualifications for appointment to the Trust Boards of temples remain unchanged. The appointing authorities also remain the same. Though the learned Advocate General sought to project the classification of Section 6(a) temples into four new categories as a justification for disbanding the existing Trust Boards, this Court finds no logic or rationale in this argument. The financial profile of the applicant for appointment as a member on the temples Trust Board has no relevance whatsoever under the provisions of the Act of 1987. Neither Section 15 nor Sections 17 and 18 of the Act of 1987 indicate such a criterion being the basis for appointment as a Trust Board member. Earlier, all Section 6(a) institutions whose annual income exceeded Rs. 1.00 crore were clubbed into one category, whereas under the amended Section 15 they are now split up into three categories with differing number of members on the Trust Boards. Except for this, there is no other change.

24. There is only an overall enhancement in the number of members on the Trust Boards of temples. There is no material to demonstrate before us that any of the existing Trust Board members have suffered any disqualification or warrant removal from office in terms of Section 28 of the Act of 1987. As the number of members has increased in such Trust Boards all that is required is that the Government supplements the existing numbers by appointing new members.

25. There is no discernible and acceptable factor which sets the existing Trust Board members apart from Trust Board members who may be appointed in future. There is therefore no logic or basis for showing the existing Trust Board members the door. Their en bloc removal without any rationale is therefore an apparent case of naked discrimination. On the one hand, no grounds are cited or established for their removal as a single class without reference to the statutory protection of Sections 17 and 28 of the Act of 1987 and on the other hand, is the denial of such protection to them alone when it continues to remain available to future Trust Board members. The clubbing of the existing Trust Board members into one single class and their unceremonious removal vide Section 163 therefore demonstrates naked discrimination against them offending Article 14 of the Constitution.

26. In D.S. Reddi, Vice-Chancellor, Osmania University v. Chancellor, Osmania University, a Constitution Bench was dealing with an amendment to the Osmania University Act, 1959, which created a distinction between the existing Vice-Chancellor of the University and all other Vice-Chancellors, before or after him. Referring to BUDHAN CHOUDHRY v. STATE OF BIHAR, the Bench observed that in

order to accept a classification as a reasonable and permissible one, not hit by Article 14, the measure in question would have to pass two tests as laid down therein (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that that differentia must have rational relation to the object sought to be achieved by the statute in question. If no such reasonable basis of classification appears on the face of the statute or is deducible from the surrounding circumstances, the Supreme Court opined that the law would have to be struck down as an instance of naked discrimination. Applying these principles, the Supreme Court found that the provisions of the Act were directed only against one individual, the existing Vice-Chancellor of the University and the classification which was sought to be effected between him as a single class as opposed to all other Vice-Chancellors, past and future, was not founded on an intelligible differentia. No rational relation was established as to the object sought to be achieved by the amendment creating such a classification and the same was accordingly held to be unconstitutional.

27. A similar amendment was under challenge in P. Venugopal v. Union of India. The petitioner before the Supreme Court was the Director of the All India Institute of Medical Sciences, New Delhi. An amendment was effected to the All India Institute of Medical Sciences Act, 1956, whereby his term was sought to be cut short. This was assailed on the ground that it amounted to a single-man legislation intended to affect the petitioner alone and therefore amounted to naked discrimination against him. Referring to the earlier judgment in D.S. Reddy Vs. Chancellor, Osmania University and Others, , the Supreme Court held that the impugned amendment was hit by Article 14 as it intended only to carry out premature termination of the tenure of the petitioner without justifiable reason or notice. The fact situation was held to be similar to that obtaining in D.S. Reddy Vs. Chancellor, Osmania University and Others, and the impugned amendment was invalidated as it created an unreasonable classification between the petitioner and future Directors and denied him fair treatment without there being any intelligible differentia.

28. The ratio laid down in these two decisions applies on all fours to the matter on hand.

29. Cutting short the normal tenure which vested in the existing Trust Board members under Section 17(2) of the Act of 1987 without any rational basis, when such guarantee of tenure continues to be available to future Trust Board members, clearly discriminates against them. In this regard, useful reference may also be made to CHAIRMAN, RAILWAY BOARD v. C.R. Rangadhamaiah, wherein a Constitution Bench was dealing with the connotation of a vested right. Referring to earlier decisions of the Supreme Court, the Bench observed that the expressions vested rights or accrued rights had been used while striking down impugned provisions which were given retrospective operation so as to adversely affect the rights of employees. The Bench further observed that the expressions

were used in the context of a right flowing under the relevant rule which was sought to be altered with effect from an anterior date, thereby taking away the benefits available under the rule in force at that time, and affirmed that it had been held that such an amendment having retrospective operation and had the effect of taking away a benefit already available to the employee under the existing rule was arbitrary, discriminatory and violative of the rights guaranteed by Articles 14 and 16 of the Constitution.

30. Article 13(2) of the Constitution proscribes the State from making any law which takes away or abridges fundamental rights and renders the law, to the extent of such contravention, void. The impugned Section 163 of the Act of 1987 demonstrably offends the principle of equality enshrined in Article 14 as the existing Trust Board members and Chairpersons were targeted as a single class without there being any reasonable classification based on any intelligible differentia and without a rational basis or object. The provision therefore falls foul of Article 13(2) of the Constitution.

31. Interestingly, in M. Thirupathi Rao v. The State of Telangana, we had occasion to consider an amendment on similar lines brought by the State of Telangana to the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (vide Telangana Ordinance No. 1 of 2014), whereby existing Market Committees were sought to be disbanded en bloc making way for the State to effect reconstitution. This Court held that the amendment was constitutionally invalid and accordingly struck down the same.

32. For the reasons aforestated, Section 163 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, inserted by way of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2014 (Act No. 8 of 2014) is declared void.

33. The writ petitions are allowed to the extent indicated above. W.P.M.P. No. 40821 of 2014 in W.P. No. 29264 of 2014 was filed by one Dr. M.V. Soundararajan seeking to intervene in the writ petition and support the petitioner therein. However, none appeared for the intervening petitioner to press the petition. W.P.M.P. No. 40821 of 2014 along with other pending miscellaneous petitions in this batch of cases shall therefore stand closed. No order as to costs.

34. Before we part with the matter, we may point out that Article 300 of the Constitution requires that the State be sued in its name. However, we find that in W.P. Nos. 29264 and 31352 of 2014, the State has been wrongly described as the Government of Andhra Pradesh. We therefore deem it proper that necessary corrections be carried out in the cause titles of these writ petitions. The Registry is accordingly directed to substitute The State of Andhra Pradesh in the place of The Government of Andhra Pradesh, wherever necessary, before issuing a copy of this order.

