
(2013) 11 AP CK 0066
In the Andhra Pradesh High Court
Case No : Writ Petition No. 31193 of 2013

Shaik Subhani

APPELLANT

Vs

The Government of Andhra Pradesh

RESPONDENT

Date of Decision : 07-11-2013

Acts Referred:

Citation : (2014) 1 ALD 713 : (2014) 2 ALT 218

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : M. Janardhan Rao, for the Appellant; Shafat Ahmed Khan, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a mandamus to declare the action of respondent No. 2-Wakf Board in orally refusing to let the petitioner to function as its Member without any written order and preventing him from functioning as such contrary to the Judgment of the Full Bench of this Court in W.P. No. 23603/2010, dated 23-11-2012, as illegal and arbitrary. While the petitioner was a Member of A.P. State Legislative Assembly (MLA), he was appointed as one of the Members of respondent No. 2-Wakf Board. One person by name Shaik Fareed filed W.P. No. 23603/2010 questioning the action of respondent No. 2-Wakf Board in continuing the petitioner as its Member despite expiry of his tenure as the M.L.A. The issue was referred to a Full Bench of this Court. The Full Bench, by its Judgment dated 23-11-2012, on interpretation of the provisions of the Wakf Act, 1995 (for short "the Act") held that the tenure of a Member of the Wakf Board is not co-terminus with the tenure of the Member of a State Legislative Assembly or the Parliament or the Bar Council, as the case may be. The petitioner pleaded that the Parliament has amended the Act under the Wakf (Amendment) Act 2013 (Act No. 27 of 2013) introducing sweeping changes to the Act and that as per the said Amendment Act, the provisions of Section 14 of the Act have been amended by adding Explanation II to Section

14(1) thereof whereunder it is declared that a Muslim member who ceases to be a Member of a State Legislative Assembly shall be deemed to have vacated the office of the Member of the Wakf Board. It is however the plea of the learned Counsel for the petitioner that the said Amendment Act has not been notified as yet.

2. Sri Shafat Ahmed Khan, learned Counsel for respondent No. 2-Wakf Board, submitted that a copy of the Gazette of India, filed by the petitioner, itself would negate the plea of the learned Counsel for the petitioner. A perusal of the copy of the Wakf (Amendment) Act 2013 filed by the petitioner shows that the same has been published in the Gazette of India (Extraordinary) No. 37, on 23-9-2013. Therefore, it is reasonable to presume that the Wakf (Amendment) Act 2013 has already come into effect. As a result of the coming into force of the said Amendment Act, the petitioner cannot claim to continue as a Member of respondent No. 2-Wakf Board as he has admitted that he ceased to be an M.L.A.

3. For the above mentioned reasons, the Writ Petition fails and the same is accordingly dismissed. As a sequel to the dismissal of the Writ Petition, WPMP No. 38745/2013 for interim relief is disposed of as infructuous.