

(2011) 12 KAR CK 0292

In the Karnataka High Court

Case No : Writ Petition No. 43289 of 2011 (GM-R/C)

Sri Ravi Shastry D.A.

APPELLANT

Vs

The Commissioner Hindu Religious Institutions and Charitable
Department. Sri. Malai mahadeshwara, Vartha Bhavan, 2nd
Floor. Alur Venkatarao Road, chamarajpet. Bangalore, The
Executive Officer Sri. Rameshwaraswamy Temple. 3rd Main
Road. Chamarajpet, Bangalore and Sri. Vishwanath Dixith

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0292

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Abhinav R., for Kumar and Kumar, for the Appellant; H.T. Narendra Prasad . HCGP for R1 and 2 and Sri Chandrashekar, for C/R3, for the Respondent

Final Decision : Allowed

Judgement

B.S. Patil

1. Order dated 10.11.2011 passed by the Commissioner for Hindu Religious institutions and Charitable Endowments, Bangalore, transferring the petitioner from his present post as Pradhan Archak of Sri Rameshwaraswamy Temple, Chamarajpet, Bangalore, to the post of Pradhan Archak of Mariamma Temple at Neelasandra, Bangalore, is called in question in this writ petition.

2. Pursuant to the notification calling for the post of Pradhan Archak petitioner had applied and after conducting interview, petitioner was selected and appointed as Pradhan Archak vide order dated 02.02.2011. He reported for duty at Rameshwaraswamy Temple, Chamarajpet, Bangalore, and since then the petitioner is discharging his duties as Pradhan Archak in the said temple. According to the petitioner, from the date of appointment, he has been discharging his duties without any blemish.

3. There is a Development Committee which is required to look after the development of the temple. It is alleged by the petitioner that at the instance of the members of the Development Committee and other persons inimical to the petitioner who have made allegations against him, petitioner is sought to be penalized by transferring him from the present place to the post of Pradhan Archak of Mariyappa Temple at Neelasandra. It is the assertion of the petitioner that he was not made known of the allegations made against him nor was there any enquiry conducted into the said allegations. Aggrieved by the penal transfer effected as per the impugned order dated 10.11.2011 produced at Annexure-J, petitioner has approached this Court.

4. Learned Counsel for the petitioner submits that the impugned order of transfer is penal in nature and therefore, the same could not have been passed without affording an opportunity of being heard.

5. The respondents have entered appearance. Learned Government Pleader was directed to secure instructions as to under what circumstances the impugned order transferring the petitioner has been passed.

6. On instructions, the Government Pleader submits that in view of the allegations made against the petitioner and in order to ensure that the duties of Pradhan Archak are discharged smoothly in the temple without giving any room for disharmony, the authority has found it just and proper to transfer the petitioner.

7. Upon hearing the learned Counsel for the parties and on perusal of the materials on record, it is seen that the order of transfer is passed by the Commissioner for Hindu Religious Institutions and Charitable Endowments, who is clothed with the power of general superintendence and control required for proper management of the institution.

8. A perusal of the impugned order indeed discloses that complaints were received against the petitioner and therefore his transfer from the present place to another temple was necessitated. It is thus clear that the authority has acted on the basis of the complaints made against the petitioner making allegations against him. Petitioner is appointed and posted as Pradhan Archak in Rameshwaraswamy temple vide order dated 02.02.2011. Within a matter of about nine months, the impugned order is passed based on certain allegations.

9. As rightly contended by the Counsel for the petitioner, the order of transfer will certainly demoralize the petitioner as the authority has acted on the basis of the allegations made against him. If at all the respondent-authorities intended to take action on the basis of the allegations, it ought to have held necessary enquiry by affording reasonable opportunity of being heard to the petitioner. If the allegations made were to be found proved, then the authority will be entitled to impose such penalty as may be deemed just and proper. The present action to transfer the petitioner based on a complaint given by the Development Committee and also the devotees cannot be sustained, as such, a transfer will

certainly have a demoralizing effect and would tantamount to penal action.

10. Hence, this writ petition is allowed. The impugned order is set aside. Liberty is reserved to the respondent-authorities to initiate action in accordance with law, if they intend to proceed against the petitioner based on the complaint received against him.