

(1979) 03 AP CK 0009

In the Andhra Pradesh High Court

Case No : Writ Petition No 3313 of 1978

Sri Shankar Mandir Marwadi Amna

APPELLANT

Vs

Assittant Commissioner, Endowment Twin Cities, Hyderabad,
and others

RESPONDENT

Date of Decision : 26-03-1979

Acts Referred:

Citation : (1979) 03 AP CK 0009

Hon'ble Judges : P.A. Chowdhary, J

Bench : Single Bench

Advocate : R. Venugopala Reddi, for the Appellant; D. Sudhakara Rao, Advocate for Respondent No. 2 to 6, for the Respondent

Final Decision : Dismissed

Judgement

Mr. P.A. Chowdhary, J.—Sri Shankar Mandir Manwadi Amna, represented by its Secretary Sri Mishrilal Vyas, has filed this writ petition challenging the order made by the Assistant Commissioner, Endowments, Hyderabad dated 28-7-78. By means of that order, the Assistant Commissioner, Endowments, Hyderabad, who is respondent No 1 of this writ petition, had appointed respondents 2, 3, 4, 5 and 6 as non-hereditary trustees to Sri Shankarji Temple, Feelkbana, for a period of three years. This action has been taken by the first respondent in exercise of his power u/s 15(3) of Act No 17 of 1966. Mr. Venugopala Reddy, for the petitioner has raised four contentions in support of his plea that the impugned order is liable to be quashed and set aside. I may mention that some of these contentions can be effectively adjudicated only on the assumption that the temple of Sri Shankarji is a denomination] temple founded by Shrimali Brahmins of Marwadi Amna, one of those countless sects in Hindu religious order. In the writ petition, it was asserted that Shrimali Brahmins of Marwadi Amtia, form a distinct sect of Brahmins absolutely unconnected with the other Brahmins. Their "kula devata" is Mahalakshmi and they worship Shankar also but, their main worship is for Sri Lakshminarayana,. It appears that these Shrimali

Brahmins worship also serpents etc, All these and more which have been mentioned in great detail in the affidavit may be true and may be sufficient to establish that Shrimali Brahmins form a distinct Sect. But, all that I say here is that this is a matter which, is better left alone for being investigated by a Civil Court. Even otherwise, that this temple of Sri Shankarji is founded by Shrimali Community would constitute an important fact in issue and I feel that is better done in a regularly constituted Civil action where evidence can be taken, witnesses can be cross-examined etc., by going through which process alone three vital questions of fact can be satisfactorily settled. Even on the assumption that the temple is a denominational institution which is founded and managed exclusively by a denominational Sect of Shrimali Brahmins, it is not in doubt that the Assistant Commissioner has the power to constitute a Board of Trustees. But it is a limited power. In those circumstances it is argued that he could not have appointed persons other than those who belong to the Shrimali Sect as non-hereditary trustees. Mr. Venugopala Reddy for the petitioner argued that the Assistant Commissioner before constituting the Board of non-hereditary Trustees must have decided whether the temple of Sri Shankarji is a denominational temple of Shrimali Brahmins. His argument is that this is a condition precedent for the exercise of his powers of constituting a Board of Trustees with persons belonging to other than Shrimali Sect. The very fact that the Assistant Commissioner the first respondent, has constituted a Board of Trustees consisting of persons other than Shrimali Sect must be deemed to furnish an answer to this argument. In the view of the Assistant Commissioner, the institution is not a denominational institution founded and managed exclusively by the Shrmali Brahmins.

2. This however, does not dispose of the case before me. There is one more submission made by Mr. Venugopala Reddy which attracted me a good deal and which is also backed by the clear authority of my learned brother Jeevan Reddy, J. In that writ petition, the petitioner claimed that from the time of his great grand-father, they have been the hereditary trustees of the temple in question and the Assistant Commissioner acted illegally in appointing a Board of non-hereditary trustees without any notice to the writ petitioner. The learned Judge allowed the writ petition and quashed the order of the Assistant Commissioner appointing a Board of non-hereditary trustees with a direction to the Assistant Commissioner to take fresh proceedings after giving notice to the writ petitioner. In that writ petition it was clearly stated by the learned Judge,

"It must be noted that the Act does not require Specifically that a notice must be given to the hereditary trustees before a Board of Trustees is appointed. It is only a principle of natural justice. The Bench never held that only a hereditary trustee is entitled to such notice and that no other person is entitled to such notice... It is axiomatic that the application of the principles of natural justice depend upon the facts of each case and it is always a question of fact whether the said principles have been observed in a given case, In this case, when it is admitted that the petitioner and his family have been in management of the said

institution and its properties for the last four generations, it was only just that he should have been heard before he was deprived of the said management".

Applying those observations, I find there is sufficient compliance with the principles of natural justice in this case. It is not the case of the petitioner that any particular individual is the hereditary trustees of the temple. On the other, they say that whole community of Shrimali Brahmins of Hyderabad are the hereditary trustees. If that were to be so, I find from the records that no principles of natural justice has been violated for, I observe from the records that a notice has been affixed to the temple on 20-6-78. This notice operates as a notice to the entire community and that would completely satisfy the requirements of the principles of natural justice. What is more, the present Secretary Sri Mishrilal Vyas the affidavitee in this writ petition had made a representation to the Commissioner on 4-1-78 requesting the Commissioner of Endowments Department to constitute a Board of Trustees with several persons whose names and details had been given in that representation. After constitution of the Trust Board on 24-7-78, Sri Mishrilal made further representations on 2-8-78, requesting the Assistant Commissioner to constitute a Trust Board afresh in which people belonging to Marwadi Amna Community alone should be the Trustees. In these circumstances, I feel that there is sufficient compliance in this case with the requirements of principles of natural justice, There is no other point argued before me. In the result, I dismiss this writ petition but, without costs. But. it should be open to the petitioners to pursue their other remedies to establish their claim to the denominational character of the temple etc..