(2012) 04 AP CK 0034

In the Andhra Pradesh High Court

Case No : Writ Petition No. 7189 of 2012

Sri Sobhanadi Lakshminarasimha Swamy Varla Veda Pathasala, Agiripally	APPELLANT
Vs	
The Commissioner, Endowments Department, Hyderabad and Others	RESPONDENT

Date of Decision : 17-04-2012

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 — Section 1(3)(a), 145, 2, 2(4), 2(5)

Citation : (2012) 5 ALT 424

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : V.V. Prabhakara Rao, for the Appellant; V.T.M. Prasad Counsel, for the Respondent

Judgement

Nooty Ramamohana Rao

1. This Writ Petition is filed by a Vedapatasala at Agiripally Village, Krishna District, challenging the correctness of the orders passed by the Commissioner of Endowments, Hyderabad on 18.01.2011 directing in turn, the Executive Officer, Sri Venkateswara Swamy Vari Devasthanam, Dwaraka Tirumala to take over the Patasala with immediate effect. It is stated that the petitioner Vedapatasala has been endowed with a total extent of Ac. 103.1 1/2 cents situate in various villages in Krishna and adjoining Guntur Districts. From out of the income so realized from these lands, the Vedapatasala is required to be run. It is further stated that the institution was established more than 100 years back by Sri Suri Markandeya Sastry and also got the endowments of the temple registered on 28.05.1913. The lands, which have been endowed to the Vedapatasala, are all highly fertile agricultural lands and taking advantage of the absence of the representative of the Vedapatasala in the village concerned, the local ryots, who have been cultivating the agricultural lands, have failed to pay up the annual maktha, as a result of which, the institution has been nearly strangulated for

want of adequate funds to run it.

2. A Vedapatasala is essentially a residential institution where the teachers and the taught live together to re-establish "the gurukula traditions". All the students, who seek to learn the Vedic literature, are treated as the children of the teachers. The teaching programme begins much before the daybreak only to end long after the dusk time. All the students are provided food, appropriate clothing and shelter. They are also taught the ways and means of leading a pious life to enable them secure easy grasp of the knowledge about the ultimate. In short, a new way of life, which is ideally suited to the learning sought after by them, is what is being imparted in a Vedapatasala. It is rather unfortunate that lately the rich legacy of Vedic literature is not receiving adequate attention, recognition and respect in the society at large. Notwithstanding the obligation of the cultivating tenants to pay up the necessary remuneration/maktha to the Vedapatasala, periodical defaults are committed with increased regularity, thus crippling the institution itself. If the institution does not receive the yield, both in cash and kind, it will be difficult for it to survive. In those set of circumstances, a committee, comprising of eminent personalities, has been constituted somewhere in 2007 to suggest appropriate measures for effectively running the institution and they have proposed to hand over the Vedapatasala to Kanchipuram Math, so that the Vedapatasala would be administered properly and efficiently and the students and the teachers are protected from the uncertainties, which they are required to face otherwise. However, the Commissioner of Endowments has viewed the matter in a different perspective and passed the impugned order directing Sri Venkateswara Swamy Vari Devasthanam at Dwaraka Tirumala in West Godavari District to take over the Vedapatasala. The only question which Sri V.V. Prabhakara Rao, learned counsel for the writ petitioner would urge is that there is no power in the hands of the Commissioner of Charitable & Hindu Religious Institutions and Endowments to take over a Vedapatasala and then, appropriate the assets and the liabilities of the said institution.

3. Per contra, Sri V.T.M. Prasad, learned Standing Counsel for the 2nd respondent temple and the learned Government Pleader for Endowments appearing for Respondents 1 and 3 would contend that the Commissioner of Endowments is the appropriate authority to supervise and administer all Hindu religious and charitable institutions and in that capacity, he can take over an institution and then, get it administered through another institution.

4. The question that requires to be examined is the applicability of the provisions of the Andhra Pradesh Charitable & Hindu Religious Institutions and Endowments Act, 1987, Act No. 30 of 1987 (henceforth, referred to as ''the Act'') to the present case on hand. Section 1(3)(a) makes it clear that the Act is applicable to all public charitable institutions and endowments, whether registered or not. Clause (b) thereof makes it clear that the provisions of the Act are attracted to all Hindu public religious institutions and endowments. Then, the question as to

whether a Vedapatasala answers the description of a ''charitable institution'' or an ''endowment'' is required to be examined. Section 2 of the Act defines various expressions found in the statute. Section 2(4) defines the expression ''charitable institution'' while Section 2(5) defines the expression ''charitable purpose'' in the following manner:

Section 2(4) ''Charitable institution'' means any establishment, undertaking, organization or association formed for a charitable purpose and includes a specific endowment and dharmadayam.

Section 2(5) ''Charitable purpose'' includes-

(a) relief of poverty or distress;

(b) education

(c) medical relief;

(d) advancement of any other object of utility or welfare to the general public or a section thereof not being an object of an exclusively religious nature.

5. From a perusal of the above definitions, it becomes abundantly clear that providing for education and advancement of any other object of welfare to the general public or a section thereof not being an object of an exclusive religious nature becomes a charitable purpose. Imparting of knowledge in Vedic literature is therefore, not only an education but is a cause in the advancement of the welfare of the human beings at large. Therefore, to my mind, a Vedapatasala answers the description of a ''charitable institution'' and consequently, the provisions of Act No. 30 of 1987 are attracted to it.

6. Sub-section (1) of Section 8 of the Act, while dealing with the functions and powers of the Commissioner of Endowments, has set out that the administration of all Charitable and Hindu religious institutions and endowments shall be under the general superintendence and control of the Commissioner and such superintendence and control shall include the power to pass any order which may be deemed necessary to ensure that such institutions and endowments are properly administered and their income is duly appropriated for the purposes for which they were found or existing.

7. Word "superintendence" connotes that act of superintending, care and oversight for the purpose of direction and with authority to direct. It implies administration control enabling the authority enjoying such power to give directions to the subordinate to discharge its administration duties and functions in the manner indicated in the order State of Bihar and Another Vs. J.A.C. Saldanha and Others,

Power of general superintendence and control signify that the Commissioner of Endowments can have the overall control. He can give such directions for the purpose of guidance and appropriate action for securing the objectives for which the endowment or the institution is established. It is also the ultimate responsibility of the Commissioner of Endowments to secure administration of the institution in an appropriate manner and also efficiently. For achieving these purposes and objectives, he can pass such orders as are deemed necessary and proper. When we peruse the impugned order, it may be true that the Commissioner has got the power of overall and general superintendence and control over the affairs of the Vedapatasala, but however, he could not have passed an order directing another institution to adopt the Vedapatasala or transfer the entire institution of the Vedapatasala by way of take over. Such powers of adoption or take over do not fall within the contours of power available to the Commissioner under general superintendence and control. It could have been a different matter if another institution, which is administered very well and that too efficiently, can be appointed as an interim administrator to another institution which was found not running well. That could have been achieved by way of general superintendence by the Commissioner. Since the Commissioner himself cannot administer directly every other charitable institution or endowment, he could have authorized some other officer or another institution to carry out any such job. In the instant case, contrary thereto, the Commissioner has directed the Vedapatasala to be adopted by Sri Venkateswara Swamy Vari Devasthanam, Dwaraka Tirumala and the Executive Officer of the said temple was directed to take over the entire Vedapatasala together with its assets. To this extent, the order of the Commissioner is clearly travelling beyond the scope of power exercisable by him under sub-section (1) of Section 8 of the Act.

8. The learned Government Pleader for Endowments and the learned Standing Counsel for the 2nd respondent institution would alternatively submit that the Commissioner of Endowments has got the power to direct adoption of an institution, which is not able to sustain itself or not capable of being administrated properly, by another institution, in accordance with the provision contained u/s 145 of the Act.

9. Dealing with the alternative contention canvassed about the power of the Commissioner to adopt, all I need to observe is that a perusal of sub-section (1) of Section 145 of the Act would provide the necessary key to understand the limits of the power available to the Commissioner in ordering adoption of an institution. Sub-section (1) of Section 145 of the Act makes it very clear that where the Commissioner has reason to believe that any religious institution is not capable of maintaining out of its funds, he may, in the interest of proper management of administration, and subject to such restrictions and conditions as he may deem fit, direct the amalgamation or adoption of such religious institution by any other religious institution having similar objects and capable of managing such institution properly. The expressions ''religious endowments'' and ''religious institution'' have been defined respectively in sub-sections (22) and (23) of Section 2 of the Act.

2(22) ''Religious endowments'' means property (including movable property) and religious offerings whether in cash or kind, given or endowed for the support of a religious institution or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises there of.

2(23) ''Religious institution'' means a math, temple or specific endowment and includes a Brindavan, Samadhi or any other institution established or maintained for a religious purpose.

10. I am not able subscribe to the view that Vedapatasala is intended for propagation of Hindu religion. The Vedic literature and knowledge, to my limited comprehension, transcends all boundaries both religious and physical. Therefore, I am not able to subscribe to the opinion of the learned Government Pleader and Sri V.T.M.Prasad that Vedapatasala is a religious institution. But it is only an endowed institution, not exclusively for religious purposes. Further, the adoption can be ordered in favour of another institution having similar objectives. Therefore, Sri Venkateswara Swamy Vari Devasthanam cannot be said to be having similar objectives as that of a Vedapatasala. Therefore, the Commissioner of Endowments cannot direct adoption of the institution, in the manner ordered by him.

11. Would it really require to set at naught the orders of the Commissioner dated 18.01.2011? When once it has come to the notice of the Commissioner that the Vedapatasala has not been properly run and managed, as it is not able to recover either the agricultural produce or cash in lieu thereof from the various cultivating tenants, notwithstanding a huge extent of Ac.103 of most fertile land available around owned by it, the Commissioner is really intending to get the institution administered properly and efficiently. Therefore, the order passed by the Commissioner can be suitably altered or modified to make it fall in line within the contours of power exercisable and available with him under sub-section (1) of Section 8 of the Act.

12. The impugned order must therefore, be read as one directing Sri Venkateswara Swamy Vari Devasthanam at Dwaraka Tirumala, represented by its Executive Officer, to be the interim administrator of the writ petitioner Vedapatasala at Agiripally Village, Krishna District, so that appropriate measures and steps can be taken by the interim administrator to not only retrieve the possession of various assets of the Vedapatasala from the encroachers, but also realize the income therefrom and administer the Vedapatasala from out of the income so generated. One thing is very clear from the provision contained under sub-section (1) of Section 8. It is this: the Commissioner can only direct the income raised from an institution to be exclusively appropriated for the purpose for which the said institution is found or existing. Therefore, the statute-maker has incorporated a restraint on the power of the Commissioner with regard to the appropriation of the income of an institution, which is not administered properly. The income generated or raised from out of the assets of a particular institution are incapable of being diverted into the general coffers of another institution. The income generated from out of the assets of a particular institution is liable to be

expended for promoting and securing the objectives for which the said institution is found or is existing. Therefore, the interim administrator will take all such necessary steps within the next three months and retrieve the possession of all assets of the Vedapatasala from the encroachers or take measures to confer status of a cultivating tenant by granting specific licence for cultivating the lands in favour of the persons found cultivating those lands for a period not exceeding one year, at any rate, terminable by 31.05.2013 and realize the income from the lands owned and belonging to the writ petitioner Vedapatasala including the arrears payable by them. All that income should be deposited in a separate bank account opened with any of the nationalized banks, if not existing already, in the name of the writ petitioner. From out of that income, all the expenditure, including the remuneration payable to the teachers and the other expenditure, which is liable to be incurred towards boarding and lodging facilities of the students studying in the said Vedapatasala and upkeep of the institution, should be taken care.

13. I am not pronouncing any opinion on the request made by the writ petitioner or on its behalf to allow the Kanchipuram Math to administer the Vedapatasala in this Writ Petition. That would be a matter, which the Commissioner of Endowments will appropriately consider at a later point of time depending upon the nature of progress achieved by the interim administrator.

14. Sri V.V. Prasabhakara Rao, learned counsel for the writ petitioner, at the end, submits that let the Commissioner submit a report at the end of one year, so that appropriately, the orders can be modified or suitably altered. Instead of prescribing any such time limit, I leave it open to the writ petitioner to seek any such further clarification or medication of the above order. It goes without saying that the Commissioner will ensure that in all his activities dealing with the writ petitioner Vedapatasala, one member of the founder''s family of the institution would be associated.

15. With this, the Writ Petition stands disposed of. No costs. Consequently, the miscellaneous applications, if any shall stand disposed of.

