

(2013) 09 KAR CK 0031
In the Karnataka High Court
Case No : M.F.A. No. 8279 of 2013 (Res)

Sri Vishnumurthy Temple

APPELLANT

Vs

Rajya Dharmika Parishat and The State of Karnataka
Commissioner for Hindu Religious and Endowments

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Hindu Religious Institutions and Charitable Endowment Act, 1997 — Section 25, 28, 29

Citation : (2013) 09 KAR CK 0031

Hon'ble Judges : Huvadi G. Ramesh, J

Bench : Single Bench

Advocate : Mahadeva R.K, for the Appellant; B.S. Sachin, for R1 Sri S.B. Shahapur, AGA for R2, for the Respondent

Final Decision : Allowed

Judgement

Huvadi G. Ramesh, J.—Heard the learned counsel representing the parties. It is the case of appellant that he is the member of Temple Committee. By the impugned order vide Annexure-A dated 26.8.2013 passed by the 1st respondent-Rajya Dharmika Parishat, he has been removed from the membership of the Committee constituted under the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 (for short "Act").

2. Sri. Mahadeva R.K., learned counsel appearing for the appellant submits that the order passed at Annexure-A is without following due procedure of law and without notice and as such, the same is non est in law and accordingly, sought for setting aside the same.

3. After hearing the learned counsel appearing for the parties, the substantial question of law that arises for consideration is when the appointment is u/s 25 of the Act, in the absence of requirement of Sections 28 and 29 of the Act, without issuing notice even before the expiry of the term, whether the State is justified in reconstituting the Committee by dissolving the earlier committee constituted. In

this regard, it may be relevant to extract S. 28 which reads:

S 28: Power to dissolve the Committee of Management:--

1. The Rajya Dharmika Parishat or Zilla Dharmika Parishat as the case may be shall have power to dissolve a Committee of Management including a member or hereditary trustee if after holding an enquiry in accordance with sub-sec. (2), it is satisfied that the Committee has -

(a) failed to discharge the duties or perform the functions in accordance with the provisions of this Act or the rules made thereunder; or

(b) disobeyed any lawful orders issued under the provisions of this Act or the rules made thereunder by the State Government or the Commissioner, Deputy Commissioner or Assistant Commissioner; or

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

2. Where the Rajya Dharmika Parishat or the Zilla Dharmika Parishat as the case may be proposes to take action under sub-sec. (1) it shall frame the charge against the chairman and give him an opportunity of meeting such charge or testing the evidence adduced against the charge and of adducing evidence in favour of the Committee including a member or hereditary trustee; and the order of dissolution shall state every charge framed against the committee including a member of hereditary trustee, explanation offered by the Committee including a member or hereditary trustee and the finding on such charge together with the reasons therefore.

3. Pending enquiry under sub-sec. (2) the Rajya Dharmika Parishat or Zilla Dharmika Parishat as the case may be may suspend the committee including a member or hereditary trustee and appoint an administrator in accordance with S. 29.

On perusal, it is seen that there is noncompliance of Section 28 of the Act while passing the impugned order by the respondent, the same is set aside. It is for the respondents to do the needful in the matter. Appeal is allowed accordingly.

The Learned Additional Government Advocate is permitted to file memo of appearance within four weeks from today.