

(2008) 10 KAR CK 0067

In the Karnataka High Court

Case No : Writ Petition No. 11938 of 2007

Udupi and Dakshina Kannada Districts Temples Management
Association (Regd.) and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 30-10-2008

Acts Referred:

Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 —
Section 25

Citation : (2009) 1 KarLJ 166

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : Padubidri Mohan Rao, for the Appellant; H.T. Narendra Prasad, High Court Government Pleader for Respondents-1 to 4 and M.E. Nagesh, for Respondents-5 and 6, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Petitioners, being aggrieved by the impugned communications dated 15th May, 2007 vide Annexure-A and dated 5th May, 2007 vide Annexure-AI and also the notifications dated 21st June, 2007 and 13th June, 2007 vide Annexure-B and C respectively issued by respondents 3 and 4, have presented the instant writ petition.

2. The only grievance by the petitioners in the instant case is that, the first petitioner is a registered body, looking after the interest of archaks and trustees of various temples in Udupi and Dakshina Kannada Districts represented by its President. The second and third petitioners are Managing Trustees of Sri Nandaneshwara Temple, Panambur and Sri Durgaparameshwari Temple, Uppunda, Kundapura Taluk, respectively. It is the case of petitioners that, the second respondent has issued the impugned circulars dated 15th May, 2007 and 5th May, 2007, directing the jurisdictional Deputy Commissioners to initiate the proceedings u/s 25 of the Karnataka Hindu Religious Institutions and Charitable

Endowments Act, 1997 (for short, "Act") to constitute the Committees of Management to the temples. In pursuance of the said circulars, the third respondent, in turn has issued the impugned notifications vide Annexure-B and C, dated 21st June, 2007 and 13th June, 2007 respectively, inviting applications from the devotees and the general public for constituting the Administrative Committee consisting of nine members for a period of three years for Administration of Sri Nandaneshwara Temple, Panambur and Sri Durgaparameshwari Temple, Uppunda, Kundapura Taluk. It is the specific case of petitioners that, when the decision of the Division Bench of this Court striking down the amended Act is seized before the Apex Court, neither the second respondent nor the third respondent has got any right to invoke Section 25 of the aforesaid Act and issue the impugned notifications. Therefore, petitioners herein are constrained to redress their grievance before this Court by assailing the correctness of the impugned circulars and the two notifications, as referred above.

3. I have heard learned Counsel appearing for petitioners and learned Government Pleader appearing for respondents.

4. After careful perusal of the impugned communications/circulars dated 15th May, 2007 vide Annexure-A and 5th May, 2007 vide Annexure-A1, and the impugned notifications issued by third respondent vide Annexure-B and C respectively, inviting applications from devotees and general public for Constitution of the Administrative Committees for a period of three years in respect of Sri Nandaneshwara Temple and Sri Durgaparameshwari Temple to look after the affairs of the said temples by invoking Section 25 of the aforesaid Act, it emerges that, the second respondent has issued the impugned communications/circulars, directing the third respondent to initiate appropriate proceedings for Constitution of the Administrative Committees as provided u/s 25 of the Act.

5. In pursuance of the interim order of stay granted by the Apex Court, staying the operation and execution of the order passed by the Division Bench of this Court, striking down the amended Act and in pursuance of the directions issued by the second respondent, third respondent has issued the impugned notifications vide Annexure-B and C as referred above, for Constitution of the Administrative Committees consisting of nine members inviting applications from the devotees and general public as per roster. Therefore, I do not find any error or irregularity as such committed by the said authority in issuing the impugned Notifications u/s 25 of the Act.

6. Further, it can be seen that, first petitioner is in Association of Temples; second and third petitioners are Managing Trustees of two different temples, as referred above and in pursuance of the impugned notifications, they have not filed any applications to become member of the Committees sought to be constituted. Therefore, they cannot assail the correctness of the impugned Notifications by making an omnibus prayer that, the Administrative Committee sought to be constituted would affect their rights, position, etc., as Managing

Trustees. The said apprehension cannot be accepted nor are they entitled to redress their grievance. On the basis of presumption and assumption, petitioners cannot maintain the writ petition and it is relevant to note that, earlier also, a Committee was constituted and the said period has already expired and a new Committee has to be constituted. Therefore, by invoking Section 25 of the Act, impugned Notifications are issued by the Competent Authority.

7. Hence, in view of the fact that, interim order of stay of the order of the Division Bench, striking down the amended Act has been granted by the Apex Court, I do not find any perversity in issuing the impugned notifications. Taking into account all these relevant factors for consideration, I do not find any error or illegality as such committed by the authorities in issuing the impugned notifications. Therefore, the prayer sought for by petitioners in the instant writ petition cannot be granted nor petitioners have made out any good grounds as such to consider the prayer sought in the writ petition. Therefore, I decline to consider the prayer and entertain the instant writ petition. Hence, the writ petition filed by petitioners is liable to be dismissed as misconceived. Accordingly, it is dismissed.