

(2010) 09 KL CK 0082

In the High Court Of Kerala

Case No : Writ Petition (C) No. 27033 of 2010 (D)

Velayudhan Nair, Hereditary Trustee

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 03-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0082

Hon'ble Judges : Thottathil B. Radhakrishnan, J;P. Bhavadasan, J

Bench : Division Bench

Advocate : D. Anil Kumar, for the Appellant; K. Mohanakannan, SC for Malabar Devaswom, for the Respondent

Judgement

1. The petitioner is one of the hereditary trustees of the Sree Thricherumanna Kottiyoor Devaswom. He raised complaints against the 6th respondent Chairman of the said Devaswom. In our view, the statutory provisions in the HR & CE Act provide adequate remedy to the petitioner by recourse to proceedings before the third respondent Commissioner who is the statutory authority. Learned Counsel for the petitioner, however, points out, as pleaded in paragraph 10 of the writ petition, that the Commissioner has been taking a partisan attitude and this is demonstrated by his relegating a complaint made by the General Secretary of the Sree Kottiyoor Perumal Seva Sangam to the Chairman for consideration. We stand advised that when power is vested in terms of a statute in a particular authority, the courts would not readily assume that the said power would be exercised in a manner unbecoming of the power and the repository. The question of any officer acting malafide may arise only if a particular action has been accomplished. Courts would not assume that a particular officer is likely to be partisan or that he would act malafide. We are not impressed by the suggestion that any other person in the rank of Commissioner, HR&CE may be considered to be appointed as an independent authority. In the aforesaid circumstances, without expressing anything on merits, we order that the third respondent will consider any complaint of the petitioner in accordance with law and provide

opportunity of hearing to the petitioner, respondent No. 6 and any other person entitled to be heard. Let a reasoned decision be rendered within a period of two months of an appropriate complaint being filed.

2. The writ petition is ordered accordingly.