



IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE NINALA JAYASURYA

WRIT APPEAL Nos.834 and 877 of 2021

(Through virtual mode)

WRIT APPEAL No.834 of 2021

M. Penchala Swamy S/o. Late Narasimhulu,
Aged 53 years, Occ: Hereditary Barber in Sri Penusila
Lakshmi Narasimha Swamy Devasthanam,
Penchalakona, Rapur Mandal, SPSR Nellore District,
and another.

.. Appellants

Versus

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue (Endowments) Department,
Secretariat, Velgapudi, Amaravathi,
Guntur District and others.

.. Respondents

Counsel for the appellants : Mr. D.V. Sasidhar
Counsel for respondents 1&2 : G.P. for Endowments
Counsel for respondent No.3 : Mr. G. Ramana Rao, Standing Counsel

WRIT APPEAL No.877 of 2021

M. Penchala Swamy S/o. Late Narasimhulu,
Aged 53 years, Occ: Hereditary Barber in Sri Penusila
Lakshmi Narasimha Swamy Devasthanam,
Penchalakona, Rapur Mandal, SPSR Nellore District,
and another.

.. Appellants

Versus

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue (Endowments) Department,
Secretariat, Velgapudi, Amaravathi, and others.

.. Respondents

Counsel for the appellants : Mr. D.V. Sasidhar



Counsel for respondents 1&2 : G.P. for Endowments
Counsel for respondent No.3 : Mr. G. Ramana Rao, Standing Counsel
Counsel for respondent No.4 : Mr. V. Venugopala Rao

COMMON JUDGMENT (ORAL)

Dt: 20.01.2022

(per Prashant Kumar Mishra, CJ)

By common order dated 12.11.2021, four writ petitions, viz., W.P.Nos.17670 of 2013, 16796 of 2020, 21185 of 2020 and 2587 of 2021 were dismissed by the learned single Judge.

2. W.A.No.834 of 2021 arises out of W.P.No.16796 of 2020 and W.A.No.877 of 2021 arises out of W.P.No.21185 of 2020. While no writ appeal has been filed in relation to W.P.No.17670 of 2013, W.A.No.829 of 2021 has been filed by the unsuccessful petitioners in W.P.No.2587 of 2021. Though initially W.A.No.829 of 2021 has been tagged with the present two appeals for joint hearing, as urged by the learned counsel for the parties, the said appeal requires to be heard separately owing to the nature of the issue involved therein, and therefore, the same was delinked for independent hearing and the present two appeals are heard together and are being disposed of by this common judgment.

3. W.P.No.16796 of 2020 and 21185 of 2020 were filed by the appellants herein, namely; M. Penchala Swamy and M. Prem Sai, who claim to be hereditary barbers in Sri Penusila Lakshmi Narasimha Swamy Devasthanam, Penchalakona. In W.P.No.16796 of 2020, they have questioned the action of the Devasthanam in not releasing the share remuneration of tonsuring tickets for the months of July and August, 2020, and in W.P.No.21185 of 2020, the action of the Devasthanam in distributing



the remuneration of Rs.8,01,950/- for the months of July, 2020 to October, 2020 directly to the barbers working under the appellants, was questioned.

4. The learned single Judge observed that no clear or categorical material was made available to hold that M. Panchala Swamy has hereditary rights which have been recognized, nor was there any material to conclude that the other barbers who joined as respondents have also been rendering services either directly or through Mr. Panchala Swamy. Having observed so, the learned single Judge held that a Mandamus can be issued only when a right is established but neither of the parties was able to establish their rights conclusively. As serious disputed facts are involved, the learned single Judge held that the parties have to approach a competent Civil Court to establish their rights with proper pleadings and evidence and a writ petition is not a proper remedy and, accordingly, dismissed the writ petitions. Having dismissed the writ petitions which are the subject matter of the present appeals, for the reasons as noted above, the learned single Judge has issued certain directions regarding conduct of public auction in relation to the license rights of tonsuring and towards interim measure to be in force till such auction is conducted.

5. Mr. D.V. Sasidhar, learned counsel for the appellants, submits that in terms of Section 87(1)(e) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act'), the Endowments Tribunal is empowered to decide the subject dispute between the parties and as such, the bar under Section 151 of the Act to institute a civil suit would apply and therefore, the observation of the learned single Judge that the parties have to approach the Civil Court is not proper. He further submits that the appellants may be permitted to avail the remedy before the Endowments Tribunal under Section 87(1)(e) of the Act and till



such time, the existing arrangement in relation to payment of tonsuring charges may be directed to be continued.

6. While disputing the claim of the appellants regarding hereditary rights, Ms. P. Rajani, learned Government Pleader for Endowments, expresses no objection for allowing the appellants to approach the Endowments Tribunal for redressal of their grievance. However, she objects to the prayer made by the learned counsel for the appellants with regard to continuation of existing arrangement in the matter of payment of tonsuring charges. She draws the attention of the Court to the Circular bearing Rc.No.A1/99732/2018 dated 05.07.2018 issued by the Commissioner of Endowments, Andhra Pradesh, directing payment to Nayee Brahmins at the rate of Rs.25/-, i.e., 100% of ticket collection, for each tonsuring in the temples in terms of the instructions issued by the Government, and submits that the said Circular is applicable to all Nayee Brahmins rendering tonsuring services in the temples in the State irrespective of the temple in which they are rendering such services.

7. We have considered the submissions of the learned counsel for the parties and perused the material on record.

8. Section 151 of the Act provides that no suit or other legal proceeding in respect of administration or management of an institution or endowment or any other matters of dispute for determining or deciding for which provision is made in the Act shall be instituted in any Court of law except under and in conformity with the provisions of the Act. Section 87 of the Act provides for the power of Endowments Tribunal to decide certain disputes and matters and in terms of clause (e) of sub-section (1) thereof, the Endowments Tribunal having jurisdiction shall have the power to enquire into and decide any dispute as to the question – whether any person is entitled by custom or otherwise to any honor, emoluments or perquisites in



any charitable or religious institution or endowment and what the established usage of such institution or endowment is in regard to any other matter.

9. A combined reading of the above provisions leads us to a conclusion that the issue concerning hereditary rights of the appellants and their entitlement to tonsuring charges being claimed by them, is cognizable by the Endowments Tribunal and as such, the Civil Court has no jurisdiction to adjudicate upon the same. Therefore, we are of the considered opinion that it would be appropriate to permit the appellants to approach the Endowments Tribunal.

10. Accordingly, the appellants are permitted to avail the remedy before the Endowments Tribunal within a period of two months from today. Till such remedy is availed, the arrangement made under the Circular bearing Rc.No.A1/99732/2018 dated 05.07.2018 issued by the Commissioner of Endowments, Andhra Pradesh, concerning payment of remuneration to barbers, shall be adhered to. It is made clear that this Court has not expressed any opinion on the merits of the matter and the Endowments Tribunal, on its jurisdiction being invoked within the time stipulated, shall decide the issue on its own merits and in accordance with law.

11. With the above observations, the writ appeals stand disposed of, modifying the order of the learned single Judge insofar as W.P.Nos.16796 of 2020 and 21185 of 2020 to the extent indicated above. Pending miscellaneous applications, if any, shall stand closed. No costs.

PRASHANT KUMAR MISHRA, CJ

NINALA JAYASURYA, J

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