



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P.Nos.19499, 19514 of 2016, 17464 of 2017, 19797 of 2018
7075 of 2019 and 10722 of 2021

W.P.No.19499 of 2016

Between:

- # 1. Itikala Nageswaraiah S/o. Sivapujari Kesavaiah, R/o. Dornipadu Village & Mandal, Kurnool District.
2. Itikala Uma Maheswaraiah S/o. Sivapujari Kesavaiah R/o. Dornipadu Village & Mandal, Kurnool District.

... **Petitioner**

AND

- \$ 1. The State of Andhra Pradesh, rep. by its Principal Secretary, Revenue (Endowments) Department, Secretariat buildings, Hyderabad.
2. The Commissioner, Endowments Department, State of A.P., at Boggulakunta, Hyderabad.
3. The Deputy Commissioner, Endowments Department, Kurnool District.
4. The Assistant Commissioner, Endowments Department, Kurnool District.
5. Sri Siddeswara Swamy Devasthanam, Dornipadu village & Mandal, rep. by its Executive Officer.

... **Respondents**

Date of Judgment pronounced on : 08-09-2021

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No
Of the Judgment?



***IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**
*** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**
+ W.P.Nos.19499, 19514 of 2016, 17464 of 2017, 19797 of 2018
7075 of 2019 and 10722 of 2021

%Date: 08.09.2021

W.P.No.19499 of 2016

Between:

- # 1. Itikala Nageswaraiah S/o. Sivapujari Kesavaiah, R/o. Dornipadu Village & Mandal, Kurnool District.
2. Itikala Uma Maheswaraiah S/o. Sivapujari Kesavaiah R/o. Dornipadu Village & Mandal, Kurnool District.

... **Petitioner**

AND

- \$ 1. The State of Andhra Pradesh, rep. by its Principal Secretary, Revenue (Endowments) Department, Secretariat buildings, Hyderabad.
2. The Commissioner, Endowments Department, State of A.P., at Boggulakunta, Hyderabad.
3. The Deputy Commissioner, Endowments Department, Kurnool District.
4. The Assistant Commissioner, Endowments Department, Kurnool District.
5. Sri Siddeswara Swamy Devasthanam, Dornipadu village & Mandal, rep. by its Executive Officer.

... **Respondents**

- ! Counsel for petitioners : Sri M. Vidyasagar
and Sri D. Sudershan Reddy
- ^Counsel for Respondents 1 to 4 : G.P. for Endowments
- ^Counsel for Respondent No.5 : Sri G. Ramana Rao Standing Counsel

<GIST:

>HEAD NOTE:

? Cases referred:

1. AIR 1996 SC 1765
2. AIR 1997 SC 3702



HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

W.P.Nos.19499, 19514 of 2016, 17464 of 2017, 19797 of 2018
7075 of 2019 and 10722 of 2021

COMMON ORDER:

These writ petitions are filed by the members of the two branches of the families of Archakas of the 5th respondent-temple. These writ petitions essentially raise the same issues of law and fact and are being disposed of by this common order.

2. Sri Siddeswara Swamy Devasthanam, Dornipadu Village & Mandal, Kurnool District, the 5th respondent herein, is the owner of various extents of land, including Ac.66.85 cents of land, which was in the possession and enjoyment of the hereditary Archakas of the 5th respondent-temple. In the year 1970, there were certain disputes between the Archaka families and the Endowment Department with regard to the apportionment of the lands. This dispute was resolved by way of a compromise, which was recorded in the proceedings of the Joint Commissioner, Endowment Department in R.Dis.No.19775/70-07, dated 07.04.1971 wherein the share of the Archakas was fixed at Ac.40.78 cents and the share of the temple was fixed at Ac.26.14 cents. On the basis of these proceedings the Commissioner, Endowment Department issued proceedings in Rc.No.A3/2089/70/4, dated 04.07.1973. In these proceedings, the land belonging to the share of Archakas was split into two parts i.e., the branch of Sivapujari Tikkaiah being allotted Ac.19.05 ½ cents and the branch of Sivapujari Veerabhadraiah being allotted Ac.17.25 ½ cents. These lands were allotted to the two branches of Archaka



families as remuneration for performing Archakatvam in the 5th respondent-temple.

3. In the year 2016, one of the members of this family approached this Court by way of W.P.No.19514 of 2016 being aggrieved by the conduct of public auction by the Executive Officer of the 5th respondent-temple, of the leasehold rights of an extent of Ac.15.10 cents, which was under the possession of that branch of the family. The contention of the petitioner therein was that the hereditary Archakas, even after the enactment of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') were entitled to continue in possession of the lands allotted to them and to obtain sustenance and livelihood from the said lands as remuneration for Archakatvam services offered in the 5th respondent-temple. The erstwhile High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh, by an interlocutory order dated 20.06.2016, had granted interim stay of auction of the leasehold rights of the said land.

4. The members of the Branch of Sri Sivapujari Tikkaiah had approached this Court by way of W.P.No.19499 of 2016 with a similar plea against the proposed auction of leasehold rights of Ac.19.05 ½ cents. A learned Single Judge of the erstwhile High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh, by an order dated 20.06.2016, had permitted the auction to go on with a direction that the proceeds of the auction would be deposited in an interest bearing fixed deposit.

5. W.P.No.17464 of 2017 came to be filed by another member of Sri Sivapujari Tikkaiah branch of the family against the auction



proposed to be held on 05.06.2017. A learned Single Judge of the erstwhile High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh, by order dated 02.06.2017, had permitted the auction to go on with a direction to deposit the auction proceeds in a fixed deposit.

6. W.P.No.19797 of 2018 was filed by the writ petitioner, who had filed W.P.No.17464 of 2017 against the proposed auction to be held on 18.06.2018. No interlocutory orders were given in this case.

7. W.P.No.7075 of 2019 came to be filed by the members of Sivapujari Tikkaiah branch of the family against the auction of the leasehold rights of the land proposed to be held on 13.06.2019. A learned Single Judge of the erstwhile High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh, by order dated 10.06.2019, had permitted the auction to go on with a direction to deposit the auction proceeds in an interest bearing fixed deposit.

8. W.P.No.10722 of 2021 came to be filed by a member of Sri Sivapujari Tikkaiah branch of the family against the auction proposed to be held on 03.06.2021. This Court by an order dated 27.05.2021, had permitted the auction to go on and not to finalise the same.

9. In all these cases, the case of the petitioners is that even though hereditary Archakatvam was terminated by the Act, Section 34(2) of the Act permitted continuation of the hereditary Archakatvam system. It is further contended by Sri M. Vidyasagar, learned counsel appearing for the petitioners in these writ petitions that even though the system of hereditary Archakatvam had been terminated, the Hon'ble Supreme Court had, on an application to that effect made by the State itself, permitted



the system to go on with the Archakas being paid in the traditional manner by way of allotment of land rather than fixation of salaries.

10. Sri D. Sudershan Reddy, learned counsel appearing for the petitioner in W.P.No.19514 of 2016 would point out to the interlocutory order passed by the learned Single Judge of the erstwhile High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh dated 18.06.2014 in W.P.M.P.No.20594 of 2014 in W.P.No.16585 of 2014 wherein the learned Judge had taken into account the fact that pay scales had not yet been fixed for the Archakas, and as such, auction of the leasehold rights of the said lands would not be permissible.

11. Sri D. Sudershan Reddy, would also rely upon the Memo No.L1/28350/2010, dated 19.06.2010, wherein the Commissioner Endowments had directed all the Deputy Commissioners, Assistant Commissioners and other functionaries of the Endowment Department not to go ahead with the auction of the leasehold rights of the lands given to Archakas unless pay scales have been fixed for such Archakas.

12. The 5th respondent-temple filed a counter affidavit. The contentions in the counter affidavit are that the petitioners are not in possession of their lands since 1994 and the Archakas in the 5th respondent-temple are being paid salaries as per the order of the Assistant Commissioner dated 14.08.2015. It is submitted that once salaries are being paid to the Archakas, they cannot claim right to the income of the land which was earlier reserved for Archakas. The further contention is that the land, which was originally allotted to the 5th respondent-temple under the proceedings of 1972 and 1973 are being claimed by another Siddeswaraswamy Temple at Kondapuram Village and



on account of that dispute the 5th respondent-temple was not getting any income apart from the lands available with the Archakas. In these circumstances, the Archakas are being paid their salaries and as such would not have any right or title over the lands or claim on the proceeds of the auction of the leasehold rights of the lands. The 5th respondent has also filed material to show that the members of these two branches of the family are being paid salaries since 2015.

Consideration of the Court:

13. The admitted facts in these cases are that Ac.66.85 cents of land, which is the subject matter of these writ petitions, belongs to the respondent-temple, and a part of the said land was given to the Archakas in lieu of payment of remuneration/salaries.

14. Prior to 1987, the Archakas, office holders and other servants of the temples used to be given service Inams for their livelihood. However, Act 30 of 1987 abolished all such schemes. Section 34 abolished all hereditary rights of Mirasidars, Archakas, other office holders and servants. The Constitutional validity of Act 30 of 1987 was upheld by the Hon'ble Supreme Court in the judgment reported in **A.S. Narayana Deekshitulu v. State of A.P.**¹. However, while upholding the abolition of the system of service Inams and share in the revenue of the temple, the Hon'ble Supreme Court observed, in paragraphs 132 to 134, as follows:

132. In Andhra Pradesh there are as many as 32,201 temples out of which 7761 temples are assessable institutions; the remaining 24,440 temples have income of

¹ AIR 1996 SC 1765



less than Rs 1000 per annum, only 582 out of them have income of more than Rs 10,000 per annum. Only around 8 temples have income of more than Rs 20,00,000 per annum. All the archakas or employees in these categories of 24,440 small temples would be deprived of their livelihood by abolition of their hereditary rights and introduction of graded scales of pay. This information has been furnished in the written arguments submitted by Shri Markandeya but we did not have the occasion to have them verified during the course of hearing. It would be seen that the principles in fixing the scales of pay and method of payment of salary introduced by the rules are required to be adjudged. In the absence of any material it is difficult for us to give any finding in that behalf. Suffice it to state that liberty is given to place those necessary and material evidence before the Government which would constitute a committee consisting of Deputy Secretary, Finance Department, Joint Secretary to the Government, Revenue (Endowments Department) and Joint Commissioner, Endowment Department. The Committee would go into the question to rationalise the pay scales of all the archakas in different temples and the modality for payment of salary to them. After approval of the rules by the State Government, the respondents should place the same before the Court for further approval.

133. Though we have upheld abolition of hereditary right to appointment as an archaka or other office-holders, the evidence from Vaikhanasa literature and other material indicate that archaka should bestow his total dedication to the Deity in the performance of daily rituals; at the same time, he and his family members must be kept in comfort. The property endowed for his services or the income derived from the offerings or the payment of salary, if any, is identified as a source for his living in comfort. The State exercising its secular power regulates appointment of archakas, as upheld hereinbefore; equally, he, along with his family, is required to be kept with daily comfort so that he would continue to dedicate himself to perform the ritual worship of the Deity. As indicated earlier, the State is



required to determine his service conditions, scale of pay and other emoluments according to the grade of the temple in which he works and to regulate the period of duty and of service. That apart, welfare measures in addition should be initiated as a measure of social welfare to the archakas and other employees of the temple and pandits working in the temples and under the supervision of the Commissioner. Therefore, the State should come forward with a scheme to provide the archakas, other employees and their family members like suitable accommodation, education by way of refresher courses and courses in Agamas in the respective region, medical facilities, educational facilities to their children, loans for construction of their own houses, and wherever accommodation in the temple is available letting the same to them on reasonable rent, group insurance scheme, unforeseen contingencies like accident, death, etc., rehabilitation of the widow or educated unemployed youth or such other measures as may be incidental and part of economic welfare. The extent of the similar facilities already existing and provided for may be excluded from the proposed scheme. For other items appropriate scheme should be formulated.

134. In that behalf the State Government is directed to constitute a committee consisting of the Additional Commissioner, Endowments Department, a Joint Secretary/Deputy Secretary (Endowment), Revenue Department; two representatives of the archakas to be nominated by their associations and one representative of other officers/servants of the temples. It would be open to the representatives of the archakas etc. to place their views and material before the Committee in the formulation of the scheme. The Committee will undertake an in-depth study into the schemes and formulate the same. After the scheme is formulated, the Government would take a decision thereon and would place the duly approved scheme before this Court within six months from today for further action thereon.



15. In pursuance of the aforesaid directions, the Government constituted committees which went into these issues. Thereafter, the said reports were placed before the Hon'ble Supreme Court along with the recommendations of the Government. The Hon'ble Supreme Court in its judgment in **A.S. Narayana Deekshitulu v. State of A.P.**² noted these recommendations. One of the recommendations of the committee, which was accepted by the Government and placed before the Hon'ble Supreme Court, was on the issue of payment of salaries to the Archakas in various temples. It was stated that where the annual income of the temples is less than Rs.5,00,000/- the said temples should be allowed to be managed by the respective managements of the temples under the supervision of the endowment department and the Archakas being permitted to retain the properties given to them in lieu of payment of salary. This recommendation of the Government was also approved by the Hon'ble Supreme Court.

16. Thereafter, Section 34(3) and proviso to Section 144 of the Act were added by way of Act 33 of 2007 with effect from 03.01.2008. The purport of these two provisions was to declare that qualified members of those Archaka families, who are continuing in Archakatvam service, as recognised by the competent authority, shall have the right to continue their Archakatvam service. However, instead of the earlier remuneration, they would receive emoluments in accordance with Section 144. The first proviso to Section 144 stated that the provisions of Section 144 would be applicable only to those institutions, whose annual income is above Rs.5,00,000/-. The second proviso stated that the Commissioner would be

² AIR 1997 SC 3702



competent to frame a scheme in case of any institution, stipulating the conditions of service and payment of emoluments to the Archakas and office holders of the institution, after obtaining approval of the Dharmika Parishad.

17. Thereafter, the Commissioner of Endowments had issued Memo No.L1/28350/2010 dated 19.06.2010 instructing all the Regional Joint Commissioners, Deputy Commissioners and Assistant Commissioners that the agricultural lands in the possession of the Archakas as service Inams cannot be put up for public auction without fixing the salaries to the Archakas.

18. The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants Service Rules, 2000 (for short 'the Rules') made under Section 34 (4) read with Section 153 of the Act, stipulates, in Rule 5, that the trustee of every institution has to prepare a Schedule of establishment specifying the designations and the number of posts in each category or grade, their scales of pay, allowances, qualifications, method of recruitment and submit the same to the competent authority for approval, who shall, thereafter, approve the schedule with such alterations, additions or omissions, as may be deemed necessary.

19. In view of the statutory requirement under the above Rules, the salaries of the Archakas have to be fixed.

20. All the above facts, would lead to the conclusion that the leasehold rights of the land belonging to the temple, which were earlier given as remuneration, to Archakas, for services rendered, cannot be



auctioned unless and until pay scales are fixed for such Archakas and salaries are paid in accordance with that scale.

21. When a similar issue had come up before the Hon'ble High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh, a learned Single Judge of the Hon'ble High Court, by an order dated 18.06.2014 in W.P.M.P.No.20594 of 2014 in W.P.No.16585 of 2014 had directed that the respondent authorities should fix the pay scales of the Archakas and thereafter take action to auction the leasehold rights of the lands belonging to the subject temple.

22. Even though this order is an interlocutory order, I am in respectful agreement with the ratio of the said order. I am of the view that the Archakas of the temples, who are subsisting on the income from the service Inam lands belonging to the temples, cannot be made to give up such lands until and unless the appropriate authority fixes the scale of pay and other service conditions of such Archakas.

23. In the present case, it is the contention of the respondents that the members of the two branches of the Archaka families are being paid salaries. However, there is no mention as to whether grades of pay and other service conditions for these Archakas have been fixed or not. In fact, it appears that except paying an ad hoc salary, the respondent authorities have not framed any scheme fixing the scales of pay/salaries to the Archakas. Such payment of ad hoc salaries cannot be treated as framing of a scheme, as required under the above proceedings.

24. In these circumstances, the writ petitions are disposed of, without costs, with a direction to the respondent authorities to frame a scheme, for the respondent-temple, as envisaged in Rule 5 of the Rules



read with Section 144 of the Act, within a period of three months, from the date of receipt of this order, and pay necessary salaries to the Archakas, failing which the Petitioners would be entitled to be put back in possession of the lands which had been allotted to them under the proceedings of the Commissioner, Endowment Department in Rc.No.A3/2089/70/4, dated 04.07.1973. As far as the auction proceeds of the previous auctions held in relation to the leasehold rights of the agricultural lands is concerned, the same shall be distributed equally between the temple and the Archakas. However, the salaries already paid to the Archakas shall be deducted and retained by the temple with the money falling to the share of the Archakas being distributed among the families of the Archakas in accordance with their right to perform Archakatvam in the respondent-temple.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

8th September, 2021

Js

R. RAGHUNANDAN RAO, J



HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

W.P.Nos.19499, 19514 of 2016, 17464 of 2017, 19797 of 2018
7075 of 2019 and 10722 of 2021

8th September, 2021

Js