

WRIT PETITION NO: 9066 of 2021 along with
W.P.Nos.21736 of 2009, 21805 of 2011 and 31958 of
2025**W.P. No.9066 of 2021**Kanjula Purushothama Reddy and
another

...Petitioner(s)

Vs.

The State Of Andhra Pradesh and Others

...Respondent(s)

W.P. No.21736 of 2009

Chikkam Srinivasa Rao

...Petitioner(s)

Vs.

State Of Andhra Pradesh and Others

...Respondent(s)

W.P. No.21805 of 2011

Peddi Satyanarayana and another

...Petitioner(s)

Vs.

The State Of Andhra Pradesh and Others

...Respondent(s)

W.P. No. 31958 of 2025

Sri Dhruti

...Petitioner(s)

Vs.

The State Of Andhra Pradesh and Others

...Respondent(s)

CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJANDATE : 11th August 2026

Present :

Advocate for Petitioner(s):

Mr. D. V. Sasidhar – W.P. No.9066 of 2021

Mr. N. Siva Reddy – W.P. No.21736 of 2009

Mr. A. Srinath – W.P. No.31958 of 2025

Advocate for Respondent(s):

GP for Endowments

Mr. K. V. Akhileswara Reddy

LISA GILL, CJ:

Learned counsel for parties are *ad idem* that an identical question arises for consideration in all the four writ petitions inasmuch as vires of Explanation-II of proviso to Section 17(1) of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, (for short, “the Act”) have been assailed to the extent it prescribes “agnatic line of succession”.

2. Learned counsel for petitioners submit that reference to individual facts of each writ petition are not required to be considered in view of question of law as raised. Claim setup by petitioners in all these writ petitions for being declared as founder family members had been rejected, as they did not fall in agnatic line of succession.

3. At the outset, it is relevant to refer to Section 17(1) of the Act which reads as under:

“17. Procedure for making appointments of trustees and their term -

(1) In making the appointment of trustees under section 15, the Government, the Commissioner, the Deputy Commissioner or the Assistant Commissioner, as the case may be, shall have due regard to the religious denomination or any section thereof to which the institution belongs or the endowment is made and the wishes of the founder:

Provided that the founder or one of the members of the family of the founder, if qualified as prescribed shall be appointed as one of the Trustees.

“Explanation I : ‘Founder’ means,-

(a) in respect of Institution or Endowments existing at the commencement of this Act, the person who was recognized as Hereditary Trustee under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 or a Member of his family recognized by the Competent Authority;

(b) In respect of an Institution or Endowment established after such commencement, the person who has founded such Institution or Endowment or a member of his family and recognized as such by the competent authority.

Explanation – II. ‘Member of the family of the founder’ means children, grandchildren and so in **agnatic line of succession** for the time being in force and declared or recognised as such by the relevant appointing authority.

..”

4. Learned counsel for parties submit that several writ petitions were filed in erstwhile High Court of Andhra Pradesh prior to bifurcation in respect to the question as raised in these petitions. Subsequent to bifurcation, cases pertaining to State of Andhra Pradesh were transferred to this High Court and those pertaining to State of Telangana were retained at Hyderabad.

5. Learned counsel for petitioners submit that question as raised in these writ petitions stands decided by High Court of Telangana vide decision dated 29.11.2024 in W.P. No.34663 of 2011 titled ‘**Smt.Rani Santhosh Saincher, through LR Smt. Shalini Saincher v. The State of Andhra Pradesh**’. Constitutional validity of Sections 15, 16, 17, 29(5) and 144 of the Act was

upheld by Hon'ble the Supreme Court in case of **Pannalal Bansilal Pitti v. State of Andhra Pradesh (1996) 2 SCC 498**.

6. Learned counsel for respondents is unable to deny that an identical issue as arising in present writ petitions was considered and adjudicated upon by Telangana High Court vide above said decision dated 29.11.2024. Issue culled out therein reads as under:

“15. The issue which arises for consideration is whether Explanation-II of proviso to Section 17 (1) of the Act is unconstitutional and offends Articles 14 and 15 of the Constitution of India, as it confines the line of succession only to "agnate" and excludes the female member of the family of the founder. In the instant case, succession to the post of trustee has been confined only to male members of family of the founder.”

7. Telangana High Court, after considering legislative history and various judgments of Hon'ble the Supreme Court concluded that Explanation-II of proviso to Section 17(1) of the Act does not disclose any *intelligible differentia* or a rational basis so as to exclude women members from family of the founder. A female member, it is observed, is like a male member being a Class-I heir as per Hindu Succession Act, 1956. In this regard, it is observed as under:

“23. The object of Section 17 of the Act is to provide a representation to the founder in the Board of Trustees of a Trust or a religious endowment. Explanation II of proviso to Section 17(1) of the Act does not disclose any intelligible differentia so as to exclude the women members from the member of the family of the founder. A female member like a male member is a class I heir in the Hindu Succession Act. The artificial distinction sought to be put by the Explanation II of proviso to Section 17(1) of the Act has no rational relation with the object of the provision, namely to provide representation to the founder in the Trust. A woman member of the family of the founder stands on the same footing as a male member of the family. The statutory right of

succession to the office of the trustee cannot be deprived to a female member of the family merely because she is a woman. No justification has been offered by the respondents in the counter affidavit for exclusion of female members of the family of the founder. The exclusion of woman member has not been shown to be made for any justifiable cause and therefore, the rule of equality has to prevail. Therefore, the Explanation II of proviso to Section 17(1) of the Act insofar as it provides "and so in agnatic line of succession for the time being in force" offends the guarantee contained in Article 14 of the Constitution of India as the same is arbitrary and discriminatory.

..

26. In the instant case, the words in Explanation II of proviso to Section 17(1) of the Act, namely "and so in agnatic line of succession for the time being in force" which exclude the female members of the family of the founder members are separable from the valid part, namely "Member of the family of the founder means children, grandchildren and declared or recognized as such by the relevant appointing authority". The aforesaid valid and invalid provisions cannot be said to be inseparable and are distinct and separate. Therefore, if the invalid provision of Explanation II of proviso to Section 17(1) of the Act is struck down, the female members of the family of the founder would be included in the definition of the family of the founder. We need not strike down the whole of Explanation II of proviso to Section 17(1) of the Act. Therefore, the words in Explanation II of proviso to Section 17(1) of the Act "and so in agnatic line of succession for the time being in force" which offends the guarantee contained in Article 14 of the Constitution of India, are declared ultra vires the Constitution of India. Accordingly, it is struck down.

8. It has been held vide decision dated 29.11.2024, that Shebaitship, besides being an office, is also a property right; is heritable and partible. Reference was made to judgments of Hon'ble the Supreme Court in **Ram Rattan v. Bajrang Lal (1978) 3 SCC 236**, **Raj Kali Kuer v. Ram Rattan Pandey AIR 1955 SC 493** and **Shumbhu Charan Shukla v. Shri Thakur Ladli Radha Chandra Madan Gopalji Maharaj AIR 1985 SC 905**. Judgment of Hon'ble the Supreme Court **Badri Nath and another v. MST. Punna (dead) by L.R.s (1979) 3 SCC 71** is also to the same effect.

9. It is brought to our notice that decision dated 29.11.2024 by Telangana High Court in W.P. No.34663 of 2011 titled '**Smt.Rani Santhosh Saincher v. The State of Andhra Pradesh**' has attained finality.

10. We are in agreement with decision dated 29.11.2024 of Telangana High Court that Hindu law does not envisage a restriction upon right of a female to inherit post of Pujari in a temple. Therefore, same analogy can be drawn in case of succession to a hereditary trusteeship.

11. We are further in agreement with above said decision to the effect that classification and distinction sought to be made by Explanation-II of proviso to Section 17(1) of the Act has no rational nexus with the object of the provision, which is to provide representation in the Trust to founder family. There is indeed no rationale or intelligible differentia which justifies such artificial distinction.

12. In the given factual matrix, Explanation-II of proviso to Section 17(1) of the Act, which states "and so in agnatic line of succession for the time being in force" is indeed violative of Article 14 of the Constitution of India. Therefore, said words which exclude female members of a family of founder being distinct and separate, are struck down being *ultra vires* the Constitution of India. Yet again, we are in agreement with decision dated 29.11.2024, that whole of Explanation-II of proviso to Section 17(1) of the Act need not be struck down, as the invalid portion of said provision is distinct and separate

from the rest and that remaining provision is not rendered null, void or ineffective with said separation.

13. Writ Petitions are accordingly allowed and rejection of claims of petitioners only on the ground that they do not fall in agnatic line of succession is set aside. Authorities are directed to consider the matters afresh in accordance with law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

Photocopy of this order be placed on the files of aforementioned connected cases.

LISA GILL, CJ

CHALLA GUNARANJAN, J

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Whether the order is Speaking/Reasoned : Yes / No

Whether the order is Reportable : Yes / No

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**HON'BLE MRS.JUSTICE LISA GILL, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE CHALLA GUNARANJAN**

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DATE :11.08.2026

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