



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
WEDNESDAY, THE TWENTY FIRST DAY OF FEBRUARY,
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE G.NARENDAR

AND

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

WA No: 609 OF 2022

(Writ Appeal under Clause 15 of the Letters Patent is filed against the order made in
WP.No.7490 of 2019, dated 26.04.2022, on the file of the High Court)

Between:

1. Tirumala TirupathiDevasthanams, Rep. by its Executive Officer, Tirupathi, Chittoor District.
2. The Executive Officer, Tirumala TirupathiDevasthanams, Tirupathi, Chittoor District.
3. The Joint Executive Officer, Tirumala TirupathiDevasthanams, Tirupathi, Chittoor District

Appellants/Respondents 2 to 4

AND

1. K.Thej Kumar Reddy S/o.lateSidda Reddy, aged 29 years, Assistant/Shroff Staff No 16983, O/o EDP Office Tirumala TirupatiDevasthanams, Door No 191259 Kesavayanagunta,Tirupati, Chittoor District
2. S Eswarachari, S/o late Murugachaii, aged 27 years, Assistant/Shroff Staff No 17516 O/o SEO Services Tirumala TirupatiDevasthanamsMangalam Quarters Tirupati Chittoor District
3. K Jagadeesh, S/o late Janakiramaiah, aged 27 years, Assistant/Shroff Staff No 17440 O/o Spl Officer S V Recording Project Tirumala TirupatiDevasthanams House No 94 CType K T Quarters TTD K T Road Tirupati
4. P Rajasekhar Reddy, S/o late Krishnamurthy Reddy, aged 28 years, Assistant/Shroff Staff No 16599 O/o AEO Coins Parakamani Tirumala TirupatiDevasthanamsTirupati Door No 294 Dhiguvareddy van palli Chandragiri Tinipati Chittoor District
5. P Harikrishna, S/o late Chandraiah, aged 32 years, Assistant/Shroff Staff No 16867 O/o AEO RI Tirumala TirupatiDevasthanams Tirumala Door No 01 B Type Quarters Tirumala Chittoor District
6. C BalaSrinivasulu, S/o late Ganadharam, aged 28 years, Assistant/Shroff Staff No 17522 O/o Dy E0 KKC Tirumala TirupatiDevasthanams Tirumala Residing at Door No 8284 SatyanarayanapuramNearLeela Mahal Tirupati
7. G Suresh Kumar, S/o late Ganeshappa, aged 27 years, Assistant/Shroff Staff No 17570 O/o Chief Engineer Tirumala TirupatiDevasthanams Door No 612K/19 MCR Colony AlipiriRaoad, Tirupati Chittoor District
8. V Guru Theja, S/o late Jagan Mohan, aged 25 years, Assistant/Shroff Staff No 17666 O/o AEO Revenue Tirumala TirupatiDevasthanams Tirumala JettigundlaPalli village Ugranampalli Post Penumur Mandal Chittoor District 517 126

9. K Reddy Prakash, S/o late Veikakatadri, aged 25 years, Assistant/Shroff Staff No 17663 O/o AEO RI Tirumala TirupatiDevasthanams Tirumala Door No 29 DodlamittaReniguntaTirupati Chittoor District

10. N Vinod Kumar Reddy, S/o late Ramachandra Reddy, aged 25 years, Assistant/Shroff Staff No 40786 O/o AEO Services Tirumala TirupatiDevasthanams Door No 1941S81910/8 KanigiSiddaiah Colony Renigunta Road Tirupati Chittoor District

...Respondents/petitioners

11. State of Andhra Pradesh, Rep by its Special Chief Secretary, Endowments Department, Secretariat, Velagapudi, Guntur District.

12. Kum. K.V.Srija, D/o late K.V.S.Babu, Junior Assistant, O/o Deputy Executive Officer, T.T.D. Tirupathi.

...Respondents/ Respondents

IA NO: 1 OF 2022

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to grant stay of operation of the order dated 26th April, 2022 in W.P.No.7490 of 2019, pending disposal of WA No.609 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the earlier Orders of the High Court dated 26.07.2022, 29.08.2022, 26.09.2022, 13.12.2022, 24.01.2023, 10.02.2023, 29.03.2023, 24.04.2023, 14.06.2023, 28.06.2023, 09.08.2023, 26.09.2023, 03.11.2023, 20.11.2023, 04.12.2023, 06.12.2023, 11.12.2023 & 07.02.2024 made herein and upon hearing the arguments of Ms Chidambara Sastry, Advocate for Appellant, Sri.J.Sudheer, Advocate for Respondent Nos.1 to 10, Government Pleader for Endowments for Respondent No.11 and of Ms G.Kavitha, Advocate for the respondent No.12, the Court made the following;

ORDER:

“1. Heard Sri S. Satyanarayana Prasad, learned Senior Counsel, along with Sri S. N. Chidhambara Sastry, learned Counsels appearing for the Appellants.

2. The Respondent No.12 in W.A.No.609 of 2022 arising out of W.P.No.7490 of 2019 has filed a Counter Affidavit enclosing therewith a list of Appointees numbering 58 who have been appointed, in anticipation of, they acquiring the qualification entitling them to hold the post. In other words, the appointments have preceded the actual act of appointee securing the qualification.

3. The learned Senior Counsel would submit that the Appellant-Tirumala Tirupathi Devasthanam has merely implemented a policy framed by the

Government, whereby, such a relaxation has been made only in respect of persons applying for employment on compassionate grounds.

4. In that view, we can only express shock at the nature of the policy. It is unheard of and probably unknown to service jurisprudence, that a person without possessing the requisite qualification, can be permitted to hold a post in anticipation of him securing the post. It is not even a case of awaiting marks of any qualifying degree in an examination which would entitle the person to apply. But for this policy, the appointees would not have been even eligible to make an application for appointment, but unfortunately, people who are ineligible even to apply, have been not only permitted to apply but also have been appointed. An eligibility criteria is fixed with the object of ensuring that the person who is appointed is capable of discharging duties attached to the said post. To draw an analogy it tantamount to asking a student of MBBS to perform surgeries in the hope that he would one day acquire the decree requiring competence to practice as a surgeon.

5. It is also submitted that this practice has been prevailing in all the departments and at this stage we can only strongly deprecate that this methodology appointing ineligible and unqualified persons is not a prerogative vested with the employer. The moment rules are framed in consonance with the provisions of Article 309, the State has ceded its power to act arbitrarily. That apart, Articles 14 and 16 are framed in a manner in order to ensure that equal opportunity is given to all eligible and thereby ensure that the best of the talent is available to the employer. All these devious methods (we call it 'devious' as we find no other justification for the same) have only ensured back door entry to the posts which otherwise is governed by Rules put in place by the Legislature stipulating the eligibility criteria, etc.

6. The action in our considered opinion even at this stage appears to be in the teeth of the law laid down by the Constitutional Bench of the Hon'ble Apex Court in Secretary, State of Karnataka and Ors. Vs. Umadevi and Others 1, wherein, the Constitutional Bench has not only declared such appointments as illegal, but has also prohibited such employments in the future to. But unfortunately, the actions complained of and before this Court today, clearly demonstrate a conduct that can be called as contumacious and clearly in contempt of the law laid down by the Apex Court in Uma Devi's case [supra].

We could at this stage to make a useful reference to the observations of the Hon'ble Apex Court as found in Para 51 which reads as under:

"The argument that the right to life protected by Article 21 of the Constitution of India would include the right to employment cannot also be accepted at this juncture. The law is dynamic and our Constitution is a living document. May be at some future point of time, the right to employment can also be brought in under the concept of right to life or even included as a fundamental right. The new statute is perhaps a beginning. As things now stand, the acceptance of such a plea at the instance of the employees before us would lead to the consequence of depriving a large number of other aspirants of an opportunity to compete for the post or employment. Their right to employment, if it is a part of right to life, would stand denuded by the preferring of those who have got in casually or those who have come through the back door. The obligation cast on the State under Article 39(a) of the Constitution of India is to ensure that all citizens equally have the right to adequate means of livelihood. It will be more consistent with that policy if the courts recognize that an appointment to a post ingovernment service or in the service of its instrumentalities, can only be by way of a proper selection in the manner recognized by the relevant legislation in the context of the relevant provisions of the Constitution. In the name of individualizing justice, it is also not possible to shut our eyes to the constitutional scheme and the right of the numerous as against the few who are before the court. The Directive Principles of State Policy have also to be reconciled with the rights available to the citizen under Part III of the Constitution and the obligation of the State to one and all and not to a particular group of citizens. We, therefore, overrule the argument based on Article 21 of the Constitution".

7. In fact, proceeding further, we also note the observations in Para 54 where the Hon'ble Apex Court has clearly expressed its angst, wherein it has

declared that decisions which run counter to the principle settled by it, shall stand denuded of the status of a precedent.

8. A reading of Para 54 would further amplify that the Constitutional Bench has not merely eroded the basis and foundation of cases settled in the past, but has also placed a caveat on Courts passing similar directions in the future to. Despite the Constitutional Bench settling the law in categorical terms, we find that appointments made would reflect a scant regard to the law that was settled and still holds the field.

9. In that view, we direct the Appellants to intimate by Written Notice to the 58 persons whose names are found in Para 14 of the Counter regarding the allegations leveled by the 12th Respondent and it is made clear that such of those persons who wish to be heard by this Court regarding legality of their appointment are entitled to make an application. In the event of the persons named in Para 14 of the Counter choosing not to appear and justify their appointment, it would be construed by this Court that they have no grounds to canvass. The Appellants shall issue communication to the 58 named people in writing and also enclose a copy of this order and acknowledgment of the said communication to 58 persons shall be placed before this Court by the next date of hearing.

10. List the matter on 01.03.2024.

11. The offending circular appears to be Circular, dated 05.10.2018, at Para 'C' Sub-Para 'e' reads as follows:

"e. As per Cir.Memo No.60681/Ser.A/2003-I GAD (Ser.A) dt.12.08.2003, a minimum period of 3 years to acquire Intermediate qualification and 5 years for acquisition of Degree qualification be allowed in respect of candidates appointed to the posts of Junior Assistants in the Subordinate Offices and Heads of Departments and Secretariat Departments as the case may be. The period should be reckoned from the date of appointment of the individual concerned. A further period of 2 years as grace period will be allowed to acquire the academic/Technical qualification."

12. As the policy has been devised by the Government, we request that the learned Advocate General by himself or by a Specially Appointed

Government Pleader in this regard, to assist this Court on the legality of the policy framed by the State.

13. Copy of this order be forwarded to the learned Advocate General."

Sd/- Sk.Md.Rafi
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. K.Thej Kumar Reddy S/o.lateSidda Reddy, Assistant/Shroff Staff No 16983, O/o EDP Office Tirumala TirupatiDevasthanams, Door No 191259 Kesavayanagunta, Tirupati, Chittoor District
2. S Eswarachari, S/o late Murugachaii, Assistant/Shroff Staff No 17516 O/o SEO Services Tirumala TirupatiDevasthanamsMangalam Quarters Tirupati Chittoor District
3. K Jagadeesh, S/o late Janakiramaiah, Assistant/Shroff Staff No 17440 O/o Spl Officer S V Recording Project Tirumala TirupatiDevasthanams House No 94 C Type K T Quarters TTD K T Road Tirupati
4. P Rajasekhar Reddy, S/o late Krishnamurthy Reddy, Assistant/Shroff Staff No 16599 O/o AEO Coins Parakamani Tirumala TirupatiDevasthanamsTirupati Door No 294 Dhiguwareddy van palli Chandragiri Tinipati Chittoor District
5. P Harikrishna, S/o late Chandraiah, Assistant/Shroff Staff No 16867 O/o AEO RI Tirumala TirupatiDevasthanams Tirumala Door No 01 B Type Quarters Tirumala Chittoor District
6. C BalaSrinivasulu, S/o late Ganadharam, Assistant/Shroff Staff No 17522 O/o Dy E0 KKC Tirumala TirupatiDevasthanams Tirumala Residing at Door No 8284 SatyanarayanapuramNearLeela Mahal Tirupati
7. G Suresh Kumar, S/o late Ganeshappa, Assistant/Shroff Staff No 17570 O/o Chief Engineer Tirumala TirupatiDevasthanams Door No 612K/19 MCR Colony AlipiriRaoad, Tirupati Chittoor District
8. V Guru Theja, S/o late Jagan Mohan, Assistant/Shroff Staff No 17666 O/o AEO Revenue Tirumala TirupatiDevasthanams Tirumala JettigundlaPalli village Ugranampalli Post Penumur Mandal Chittoor District 517 126
9. K Reddy Prakash, S/o late Veikataadri, Assistant/Shroff Staff No 17663 O/o AEO RI Tirumala TirupatiDevasthanams Tirumala Door No 29 DodlamittaReniguntaTirupati Chittoor District
10. N Vinod Kumar Reddy, S/o late Ramachandra Reddy, Assistant/Shroff Staff No 40786 O/o AEO Services Tirumala TirupatiDevasthanams Door No 1941S81910/8 KanigiSiddaiah Colony Renigunta Road Tirupati Chittoor District
11. The Special Chief Secretary, State of Andhra Pradesh, Endowments Department, Secretariat, Velagapudi, Guntur District.
12. Kum. K.V.Srija, D/o late K.V.S.Babu, Junior Assistant, O/o Deputy Executive Officer, T.T.D. Tirupathi. (Addressee Nos.1 to 12 by RPAD)
13. One CC to Ms.C.Sindhu Kumari, Advocate (OPUC)

14. One CC to Sri Chidambara Sastry, Advocate (OPUC)
15. One CC to Ms G.Kavitha, Advocate (OPUC)
16. One CC to Sri.J.Sudheer, Advocate (OPUC)
17. One CC to Ms Subhashini, Advocate (OPUC)
18. Two CCs to GP for Endowments, High Court Of Andhra Pradesh. [OUT]
19. One CC to the Advocate General, High Court of AP [OUT]
20. Two spare copies

MM



HIGH COURT

**GN,J
&
VGKR,J**

DATED: 21/02/2024

NOTE: LIST THE MATTER ON 01.03.2024

ORDER

WA.No.609 of 2022

DIRECTION

