

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
FRIDAY, THE TWENTY EIGHTH DAY OF OCTOBER TWO THOUSAND AND
TWENTY TWO

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NOS: 39464, 39473 & 39485 OF 2022

WRIT PETITION NO: 39464 OF 2022

Between:

1. Mandagondi Daivadeenam (Died per L.Rs),
2. Mandagondi Chandrashekar, S/o Mandagondi Daivadeenam,
3. Mandagondi Sreenivas, S/o Mandagondi Daivadeenam
4. Mandagondi Shivaramakrishna, S/o Mandagondi Daivadeenam,

Petitioners

AND

1. The State of Telangana, Rep.by its Principal Secretary, Revenue Endowments Department, Secretariat, Hyderabad.
2. The Chairman-Cum-District Judge, Telangana Endowments Tribunal Bhumannagalli, Barkatpura, Behind Tuljabhavan Dharmashala, Hyderabad.
3. The Asst. Commissioner, Endowments Department, Khammam Town and District.
4. Sri Chandrasekhara Swamy Temple, Narapunenipalli Village, Wyra Mandal, Khammam District, Rep. by its Executive Officer

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ in the nature of certiorari/mandamus or any other nature declaring the. (i) the letter of the 1st respondent No. 3572/Endts.II./A2/2020 Dt. 17/2/2021, issued to the 3rd Respondent learned Telangana Endowments Tribunal concurring with the orders passed by the Member as per rule 22 (2) of Telangana Charitable and Hindu Religious Institutions and Endowment Tribunal Rules 2010, without considering the orders passed by the Judicial Member i.e, Chairman, passed in O.A.No. 563 of 2011 (Old O.A.No. 2 of 2010 D.C., Warangal) in the light of the orders passed by this Honourable Court in I.A.No. 1 of 2019 in W.P.No. 17474 of 2019 Dt. 16/8/2019, is illegal, unlawful, against the provisions of Constitution of India, Principles of natural justice and consequently liable to be set aside. (ii) Challenging the Rule 22 (2) of the A.P Charitable and Hindu Religious Institutions and Endowment Tribunal Rules 2010 as adopted by the State of Telangana on the ground that it is unconstitutional being violative of Article 14 of Constitution of India and Ultra-Virus to Section 87 to 89 of Telangana State Charitable and Hindu Religious Institutions and Endowment Act, 30 of 1987 and against the spirit of Judicial system, since the said Rule empowers the Government to decide in the cases where the Chairman and Member differ and disagree on the merits of the matter and give conflicting judgments and (iii)praying this Honourable court to confirm the order passed by the Chairman cum-district

Judge in O.A.No.563 of 2011 (Old O.A.No. 2 of 2010 D.C., Warangal) Dt. 3/12/2019 by setting aside/rejecting the order passed by the Administrative Member in O.A.No. 563 of 2011 (Old O.A.No. 2 of 2010 D.C., Warangal) Dt. 10/01/2020 on the file of the 3rd Respondent learned Telangana Endowments Tribunal at Hyderabad;

IA NO: 1 OF 2022:

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the letter of the 1st respondent No. 3572/Endts.II,/A2/2020 Dt. 17/2/2021, issued to the 3rd Respondent learned Telangana Endowments Tribunal, Hyderabad by staying all further proceedings in O.A.No. 563 of 2011 (Old O.A.No.2 of 2010 before D.C, Warangal), pending disposal of WP 39464 of 2022, on the file of the High Court.

WRIT PETITION NO: 39473 OF 2022

Between:

Smt. Kadiyala Rukmini., W/o Sreenivasa Rao, R/o Narapuninipalli (V), Wyra Mandal, Khammam District.

Petitioner

AND

1. The State of Telangana, Rep.by its Principal Secretary. Revenue Endowments Department. Secretariat Hyderabad
2. The Chairman-Cum-District Judge Telangana, Endowments Tribunal Bhumannagalli, Barkatpura Behind TuljabhavanDharmashala, Hyderabad
3. The Asst. Commissioner, Endowments Department, Khammam Town and District
4. Sri Chandrasekhara Swamy Temp Narapunenipalli village, Wyra Mandal Khammam District, Rep. by its Executive Officer

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ in the nature of mandamus or any other nature declaring the (i) the letter of the 1st respondent No. 3572/Endts.II,/A2/2020 Dt. 17.2.2021, issued to the 3rd Respondent learned Telangana Endowments Tribunal concurring with the orders passed by the Member as per rule 22 (2) of Telangana Charitable and Hindu Religious Institutions and Endowment Tribunal Rules 2010, without considering the orders passed by the Judicial Member i.e, Chairman, passed in O.A.No. 564 of 2011 (Old O.A.No. 3 of 2010 D.C., Warangal) in the light of the orders passed by this Honourable Court in I.A.No. 1 of 2019 in W.P.No. 17474 of 2019 Dt. 16.8.2019. is illegal, unlawful, against the provisions of Constitution of India, Principles of natural justice and consequently liable to be set aside. (ii) Challenging the Rule 22 (2) of the A.P Charitable and Hindu Religious Institutions and Endowment Tribunal Rules 2010 as adopted by the State of Telangana on the ground that it is unconstitutional being violative of Article 14 of Constitution of India and Ultra-Virus to Section 87 to 89 of Telangana State Charitable and Hindu Religious Institutions and Endowment Act, 30 of 1987 and against the spirit of Judicial system, since the said Rule empowers the Government to decide in the cases where the Chairman and Member differ and

disagree on the merits of the matter and give conflicting judgments and disagree on the merits of the matter and give conflicting judgments and (iii) praying this Honourable court to confirm the order passed by the Chairman-cum-district Judge in O.A.No.564 of 2011 (Old O.A.No. 3 of 2010 D.C., Warangal) Dt. 3.12.2019 by setting aside/rejecting the order passed by the Administrative Member in O.A.No. 563 of 2011 (Old O.A.No. 2 of 2010 D.C., Warangal) Dt. 10.01.2020 on the file of the 3rd Respondent learned Telangana Endowments Tribunal at Hyderabad.;

IA NO: 1 OF 2022:

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the letter of the 1 st respondent No. 3572/Endts.11,/A2/2020 Dt. 17.2.2021, issued to the 3 rd Respondent learned Telangana Endowments Tribunal, Hyderabad by staying all further proceedings in O.A.No. 564 of 2011 (Old 3 of 2010 before D.C, Warangal), pending disposal of WP 39473 of 2022, on the file of the High Court.

WRIT PETITION NO: 39485 OF 2022

Between:

1. Mandagondi Parthasarathi, (Died per L.Rs)
2. Mandagondi Kanakadurga, W/o Late S M Parthasarathi
3. Mandagondi Swarajyalakshmi, D/o late Sri M Parthasarathi
4. Mandagondi Srivalli, W/o Sri U Srinivasa Rao
5. Chavali Krishna Veni, W/o. Sri Chavali Venkataramana
6. Mandagondi Sridevi, D/o Late Sri M Parthasarathi

Petitioners

AND

1. The State of Telangana, Rep.by its Principal Secretary. Revenue endowments Department, Secretariat Hyderabad
2. The Chairman-Cum-District Judge, Telangana Endowments Tribunal Bhumannagalli, Barkatpura Behind Tuljabhavan Dharmashala, Hyderabad
3. The Asst. Commissioner, Endowments Department, Khammam Town and District
4. Sri Chandrasekhara Swamy Temple, Narapuneni palli village, Wyrmandal, Khammam District, Rep. by its Executive Officer

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ in the nature of certiorari/mandamus or any other nature declaring the. (i) the letter of the 1st respondent No. 3572/Endts.II,/A2/2020 Dt. 17.2.2021, issued to the 3rd Respondent learned Telangana Endowments Tribunal concurring with the orders passed by the Member as per rule 22 (2) of Telangana Charitable and Hindu Religious Institutions and Endowment Tribunal Rules 2010, without considering the orders passed by the Judicial Member i.e, Chairman, passed in O.A.No. 750 of 2010 (Old O.A.No. 1 of 2010 D.C., Warangal) in the light of the orders passed by this Hon'ble Court in I.A.No. 1 of 2019 in W.P.No. 17474 of 2019 Dt. 16.8.2019, is illegal, unlawful, against the provisions of Constitution of India, Principles of natural justice

and consequently liable to be set aside. (ii) Challenging the Rule 22 (2) of the A.P Charitable and Hindu Religious Institutions and Endowment Tribunal Rules 2010 as adopted by the State of Telangana on the ground that it is unconstitutional being violative of Article 14 of Constitution of India and Ultra-Virus to Section 87 to 89 of Telangana State Charitable and Hindu Religious Institutions and Endowment Act, 30 of 1987 and against the spirit of Judicial system, since the said Rule empowers the Government to decide in the cases where the Chairman and Member differ and disagree on the merits of the matter and give conflicting judgments and praying this Hon'ble court to conform the order passed by the Chairman cum-district Judge in O.A.No. 750 c 2010 (Old O.A.No. 1 of 2010 D.C., Warangal) Dt. 3/12/2019 by setting aside/rejecting the order passed by the Administrative Member in O.A.No. 750 of 2010 (Old O.A.No. 1 of 2010 D.C., Warangal) Dt. 10/01/2020 on the file of the 3rd Respondent learned Telangana Endowments Tribunal at Hyderabad;

IA NO: 1 OF 2022 :

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the letter of the 1st respondent No. 3572/Endts.II,/A2/2020 Dt. 17/2/2021, issued to the 3rd Respondent learned Telangana Endowments Tribunal, Hyderabad by staying all further proceedings in O.A.No. 750 of 2010 (Old 1 of 2010 before D.C, Warangal), pending disposal of WP 39485 of 2022, on the file of the High Court.

These petitions coming on for hearing, upon perusing the Petitions and the affidavits filed in support thereof and upon hearing the arguments of SRI SRINIVAS ALENUR Advocate for the Petitioners in all petitions and Sri S Venkata Ramana, GP for Endowments for the Respondents 1 to 3 in all petitions and Sri J R Manohar Rao (S.C.) for the Respondent 4 in all petitions, the Court made the following.

ORDER:

Heard Mr. Srinivas Alenur, learned counsel for the petitioners.

Petitioners have challenged the legality and validity of the communication dated 17.02.2021 of the Secretary to the Government of Telangana, Revenue (Endowments-II Department) addressed to respondent No.2. i.e., Chairman -cum- District Judge, Telangana Endowments Tribunal, Hyderabad. Additionally, petitioners have also questioned the *vires* of sub-rule (2) of Rule 22 of the Telangana Charitable ad Hindu Religious Institutions and Endowments Tribunal Rules, 2010 (briefly 'the 2010 Rules' hereinafter).

On going through the 2010 Rules, we do not find any provision dealing with constitution of the Endowments Tribunal or number of members of the Endowments Tribunal. On the other hand, sub-rule (2) of Rule 22 thereof provides that both Chairman and Member of the Endowments Tribunal shall hear the arguments and deliver orders either jointly or independently. In case

of disagreement, Chairman of the Endowments Tribunal shall address the Government.

From the above, a view can be taken that the Endowments Tribunal comprises of a Chairman and a Member, the Chairman being a judicial officer of the rank of District Judge.

From a reading of the 2010 Rules, it is quite evident that Endowments Tribunal is a judicial body. In the event of disagreement between Chairman and Member of the Endowments Tribunal, Rule 22(2) of the 2010 Rules empowers the Chairman of the Tribunal to address the Government.

Prima facie, we are of the view that in the midst of judicial adjudication by a judicial body, reference to the Government (executive authority) would defeat the very purpose of adjudication by the Endowments Tribunal. Such a course of action would not meet the requirements of a fair adjudicatory process.

That apart, in so far the impugned communication is concerned, no reasons have been assigned by the Secretary to the Government of Telangana, Revenue (Endowments-II Department) as to why the Government has concurred with the orders passed by the Member and not with the view taken by the Chairman of the Telangana Endowments Tribunal, Hyderabad.

Issue notice.

Mr. S.Venkata Ramana, learned Government Pleader for Endowments waives notice for respondents No.1 to 3.

Mr. J.R.Manohar Rao, learned Standing Counsel for Endowments waives notice for respondent No.4.

List these matters along with W.P.Nos.40476/2018, 17474/2019, 14861/2020, 24029/2022 and 28636/2022 on 29.12.2022.

In the meanwhile, there shall be stay of further proceedings in O.A.Nos.563 & 564 of 2011 and 750 of 2010 pending on the file of Telangana Endowments Tribunal, Hyderabad.

SD/- K.AMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue Endowments Department, State of Telangana Secretariat, Hyderabad.

2. The Chairman-Cum-District Judge, Telangana Endowments Tribunal Bhumannagalli, Barkatpura, Behind Tuljabhavan Dharmashala, Hyderabad.
3. The Asst. Commissioner, Endowments Department, Khammam Town and District.
4. The Executive Officer, Sri Chandrasekhara Swamy Temple, Narapunenipalli Village, Wyra Mandal, Khammam District, (1 to 4 by RPAD)
5. One CC to SRI. SRINIVAS ALENUR Advocate [OPUC]
6. Two CCs to GP FOR ENDOWMENTS, High Court at Hyderabad. [OUT]
7. Two spare copies

HIGH COURT

HCJ & CVBRJ

DATED:28/10/2022

ORDER

WP.NOS.39464, 39473 & 39485 of 2022

STAY

