

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11006/2008

(From the judgement and order dated 05/10/2007 in WA No. 498/2006 of
The HIGH COURT OF KARNATAKA AT BANGALORE)

SESHADRIPURAM EDUCATIONAL ASSOCIATION

Petitioner(s)

VERSUS

V.VENKATESH & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 09/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR

HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioner(s) Mr. BPS Patil, Sr. Adv.
Mr. B. Subrahmanya Prasad, Adv.
Mr. Ajay Kumar M., Adv.
Mr. V.N. Raghupathy, Adv.For Respondent(s) Mr. Girish Ananthamurthy, Adv.
Mr. P.P. Singh, Adv.UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is disposed of.

[SUMAN WADHWA]
COURT MASTER[SHASHI BALA VIJ]
COURT MASTERSigned order is placed on the file.
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4272 OF 2009
(Arising out of SLP(C)No. 11006/2008)

Seshadripuram Educational Association

...Appellant(s)

Versus

V.Venkatesh & Ors.

...Respondent(s)

ORDER

Delay condoned.

Leave granted.

The Appeal is filed against the judgment of Division Bench of the Karnataka High Court by which a direction is given to the Seshadripuram Educational Association to consider the applications made to it for admitting the respondents as life members of the Society. The concerned para runs like this:

"10. We think it is just and proper for us to give a direction to the second respondent to consider their application keeping in view the date of their application was prior to the resolution passed on 6.5.2005

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proposing to amend the memorandum of Association. The application seeking admission of them as life members of the society were earlier to the proposed amendment to the Memorandum of Association and its approval granted by the first respondent, therefore the appellants applications are required to be considered by second respondent without reference to the amended clause of the Memorandum of Association. In this regard the first respondent must also see that necessary direction shall be issued to the second respondent to consider their application by the second respondent in accordance with law and dispose of the matter within six months from the date of receipt of the order."

Shri B.P.S. Patil, learned counsel appearing on behalf of the appellant firstly argues that the High Court has committed an error of jurisdiction in entertaining the writ petition under Art.226 seeking the direction to a private society like the petitioner herein. We have seen the impugned judgment. The High Court has relied on the reported decision in Anadi Mukta

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Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust and Others vs. V.R.Rudani and others reported in AIR 1989 SC 1607. The ruling is not applicable here. The society herein in entertaining or not entertaining the membership application was not doing any statutory duty. The society is bound by its own bye-laws and not by

any other statutes in the matter of membership.. The
Karnataka Society Registration Act, 1960, does not provide
for the membership of a particular society or any rights
thereof.

In that view, we do not think that the High Court was
right in relying on Anadi Mukta (supra) decision. It is now a
settled law that unless a private society is engaged in doing
any public duty the writ petition against it would not be
maintainable. That is the only question involved. In that
view, we set aside the judgment of the High Court and the
order of dismissal of the writ petition. However, the
appellants may pursue such remedy as is available to them in
law.

The appeal is disposed of accordingly.

.....J.
(V.S. SIRPURKAR)

.....J.
(B.S. CHAUHAN)

New Delhi,
July 9, 2009.