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Court : Karnataka

Decided On : Jan-30-2015

Judge : S. Abdul Nazeer

Appeal No. : Writ Petition No. 50090 of 2014 (GM-R/C)

Appellant : Ashok Kumar Jain

Respondent : The President, Zilla Dharmika Parishath Hindu Religious and Charitable Endowment Department and Addl. Deputy Commissioner and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 and 227 Of The Constitution Of India, Praying To Quash The Order Dated 26.8.2013 Issued By The R-3 Vide Ann-C.)

1. The petitioner was appointed as the member of the Managing Committee of the temple Sri.Moojilnaya in Idu village of Karkala Taluk at Udupi District by the Zilla Dharmika Parishat, Udupi District, under Section 25 of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 ('the Act' for short). Respondent No.3 passed an order at Annexure 'C' dated 26.8.2013 dissolving the

Committee of Management of the aforesaid temple. The petitioner has called in question the validity of the said order in this writ petition.

2. I have heard the learned Counsel for the parties.

3. Learned Counsel for the petitioner contends that the petitioner was appointed by the Zilla Dharmika Parishat as the member of the Committee of Management of the temple. The Committee has been managing the affairs of the temple without any blemish. The respondent No.3 has dissolved the Committee without assigning any reason and without holding an enquiry as provided under Section 28 of the Act.

4. On the other hand, learned Counsel appearing for the respondents submit that the term of the members of the Managing Committee is subject to the pleasure of the Zilla Dharmika Parishat or for a period of three years, whichever is earlier unless in the meantime, the Committee is dissolved or has ceased to function. In support of his contention, he has drawn my attention to Section 26 of the Act. Since they were holding the office at the pleasure of the Zilla Dharmika Parishat, the question of holding an enquiry contemplated under section 28 of the Act does not arise.

5. I have carefully considered the arguments of the learned Counsel made at the Bar and perused the materials placed on record.

6. Section 25 of the Act authorizes the Zilla Dharmika Parishat to constitute the Committee of Management of the temple. Section 26 of the Act provides for term of office of the Committee of Management and election of Chairman. Sub-section (1) of section 26 of the Act states that subject to the pleasure of the Rajya Dharmika Parishat or Zilla Dharmika Parishat as the case may be, members shall hold office for a term of three years unless in the meanwhile the Committee is dissolved or has ceased to function.

7. It is clear from this provision that a member of the committee has to hold the office subject to the pleasure of the Zilla Dharmika Parishat or for a period of three years whichever is earlier unless the Committee is dissolved or ceases to function

in the meanwhile.

8. A perusal of the order impugned makes it clear that the petitioner has not been terminated from the membership of the Committee. The Committee of Management itself has been dissolved. Section 28 of the Act states that Rajya Dharmika Parishat or Zilla Dharmika Parishat as the case may be, shall have power to dissolve a Committee of Management including a member or hereditary trustee, if after holding an enquiry in accordance with sub-section (2), it is satisfied that the committee has failed to discharge the duties or perform the function in accordance with the provisions of the Act or the Rules made thereunder or disobeyed any lawful orders issued under the provisions of the Act or the Rules made thereunder by the State Government or the Commissioner, Deputy Commissioner or Assistant Commissioner or committed any malfeasance or misfeasance or is guilty of breach of trust or misappropriation in respect of the properties of the institution or endowment.

9. In the instant case, it is not the case of the respondent that the Committee of Management has failed to discharge its duties or disobeyed the lawful orders or committed malfeasance, misfeasance, etc., It has dissolved the committee without assigning any reasons. It is also clear that no enquiry has been held in accordance with sub-section (2) of Section 28 of the Act. The impugned order has been passed in violation of section 28 of the Act.

10. In the result, the writ petition succeeds and it is accordingly allowed. The order passed by respondent No.3 at Annexure 'C' dated 26.8.2013 is hereby quashed. It is hereby clarified that this order will not preclude the competent authority from taking action against the members of the Committee in accordance with law.

11. Learned Advocates appearing for the respondents are permitted to file vakalath/memo of appearance as the case may be within a period of eight weeks from the date of receipt of a copy of this order. No costs.

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