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Court : Andhra Pradesh

Decided On : Jul-30-2003

Reported in : 2003(6)ALT592

Judge : L. Narasimha Reddy, J.

Appeal No. : Writ Petition No. 11304 of 2003

Appellant : Md. Muneeruddin

Respondent : Administrator-cum-senior Civil Judge and anr.

Advocate for Def. : G.P. for Home

Advocate for Pet/Ap. : P. Venugopal, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

L. Narasimha Reddy, J.

1. For the administration of A.S. Peta Mosque and Tomb Estate, Nellore District, a scheme was framed about 85 years back in O.S.No. 50/1913 in the court of Temporary Subordinate Judge, Vellore through decree dated 10-12-1917. The same was approved by the Madras High Court in A.S.No. 200/1917 in its judgment

dated 25-4-1918. According to the scheme the administration of Wakf vested in the District Judge, Nellore. As part of the scheme, the petitioner herein, was appointed as trustee on 30-1-1999 for a term of five years.

2. The petitioner contends that one day before the Ramjan Festival of that year, the District and Sessions Judge, Nellore, the 2nd respondent herein visited the Wakf on 16-12-2001 and had forced him to submit his resignation. It is also his case that on 18-12-2001 the 2nd respondent placed him under suspension and thereby the letter of resignation submitted by the petitioner was ignored. The 2nd respondent passed an order dated 7-3-2002 dismissing the petitioner from trusteeship. Petitioner challenges the same in this writ petition.

3. Sri P. Venugopal, learned counsel for the petitioner submits that the petitioner was forced to submit this resignation on 16-12-2001 itself. According to him once the 2nd respondent passed order dt. 18-12-2001 suspending the petitioner, it has to be presumed that the letter of resignation was not acted upon as such further steps could have been taken only on the basis of enquiry. He submits that since no findings were recorded against the petitioner and no notice was issued to him framing any charges, the impugned order cannot be sustained.

4. Learned Government Pleader for Home on the other hand submits that the petitioner himself had submitted his resignation and the same was not retracted from, at any point of time. He submits that there is no inconsistency or illegality in the impugned proceedings.

5. It is not in dispute that the petitioner had submitted his resignation for the trusteeship. Till to-day the petitioner has not retracted from the same nor did he seek a declaration as to the legality or otherwise of such resignation. The only dispute is as to the point of time at which it is said to have been submitted. While according to the petitioner he submitted the same on 16-12-2001, the impugned order discloses that it was submitted after the petitioner was issued order of suspension dated 18-12-2001. Therefore, it needs to be seen as to whether the issuance order of suspension would make any difference, presuming that the petitioner submitted his resignation anterior thereto.

6. Whenever any incumbent submits his resignation to the post or office held by him, it is always open to the competent authority to accept the same instantly or to choose to initiate disciplinary or other related proceedings. The fact that an employee or holder of an office is placed under suspension subsequent to submission of resignation does not wipe away the legal consequences that flow from the letter of resignation. Having initiated such proceedings, the competent authority can still reserve his liberty and right to accept the resignation. That being the situation it hardly makes any difference whether the resignation submitted by the petitioner was anterior or posterior to the order of suspension dated 18-12-2001. The only way the petitioner could have extricated himself from the consequences flowing from the letter of resignation, was by retracting from the same, either by stating the necessary circumstances to the 2nd respondent himself or by seeking an appropriate declaration in a competent court of law. Withdrawal of resignation, before it is acted upon, is also permissible in law. These steps have not been taken by the petitioner. Hence the discretion and power of the 2nd respondent to accept the resignation of the petitioner remained unaffected.

7. The learned counsel for the petitioner points out to certain sentences and expressions used in the impugned order and states that the impugned order is passed not as measure of acceptance of the resignation but as a measure of penalty. It is true that there are certain superfluous expressions in the impugned order. However it is not at all difficult to discern from it, that the factor which constituted the basis for dismissal of the petitioner from trusteeship was his resignation and not the outcome of any enquiry or the allegations contained in the order of suspension.

8. Therefore, viewed from any angle this court does not find any basis to interfere with the order dated 7-3-2002 passed by the 2nd respondent.

The Writ Petition is accordingly dismissed. No costs.