

THE HON'BLE THE ACTING CHIEF JUSTICE C. PRAVEEN KUMAR
AND
THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION (PIL) No.181 of 2018

ORDER: {Per Hon'ble Sri Justice M. Satyanarayana Murthy }

1. The petition under Article 226 of the Constitution of India is filed by the petitioner in the nature of Public Interest Litigation to declare G.O.Rt.No.927 Revenue (Endowments-I) Department, dated 1.10.2015, as arbitrary, illegal and contrary to Section 70 of the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowment Act (Act 30/87) and consequently, to set aside the same so far as it relates to allocation or contribution of 2% out of 9% of Common Good Fund in favour of Hindu Dharmika Parirakshana Trust by directing respondents Nos.1 to 3 not to collect any amounts from the Pubic Endowment Institutions towards Common Good Fund.

2. It is the case of the petitioner that the Government issued G.O.Rt.No.927 Revenue (Endowments-I) Department, dated 1.10.2015 enhancing contribution from 5% to 9% for different purposes. But according to Clause 7(2)(b) of the impugned G.O., 2% out of 9% contributed to Common Good Fund shall be compulsorily allocated for Hindu Dharmik activities, and this amount shall be kept at the disposal of the Hindu Dharma Parirakshana Trust in a separate account on a quarterly basis, and this clause for diversion of funds from Common Good fund to Dharmika activities is illegal as the very establishment of Dharma Parirakshana Trust is without statutory basis and therefore, the said direction is now questioned in the present writ petition since it is contrary to Sections 70 and 71 of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987.

3. During hearing, Sri G.V. Shivaji, on behalf of Sri N. Janardhan Reddy, learned Counsel for the petitioner contended that very constitution of Trust is not based on any order of the Government and it is not a statutory trust created by the Government, but it consists of several organizations viz., Vikaas Tharangini of Shri Chinna Jeeyar Swamy Ji; Art of Living of Sri Sri Ravi Shankar Ji; Sri Raghavendra Swamy Mutt of Mantralayam; Sripeetam of Swamy Paripoornananda Ji; Gayatri Pariwar, Samajika Samarasta Vedika, Samaskruti Foundation etc., and the diversion of 2% funds contributed by the Charitable and Hindu Religious Institutions to Common Good Fund to private institutions is illegal and therefore, requested to set aside Clause 7(2)(b) of G.O.Rt.No.927, dated 1.10.2015.

4. On the other hand, Sri T.N.M. Ranga Rao, learned Government Pleader for Endowments contended that Section 152 of the Act provides Constitution of Andhra Pradesh Dharmika Parishad, and he admitted that this trust was not created under any statutory provision, however, the amount is ordered to be diverted only for the purpose specified in Section 70 of the Act and such diversion is not illegal and it is for the benefit of the Hindus, more particularly for meeting the urgent repairs and renovations of temples, and the expenses can be met only from the Common Good fund. It is also stated that major events like recent Godavari Pushkarams and forthcoming Krishna Pushkarams necessitate renovation of large number of temples, at one time which the Endowment Department cannot handle with the meagre funds available at its disposal under Common Good Fund, and therefore, contribution from 5% to 9% to renovate the temples is enhanced, and at the same time, in G.O.Rt.No.927, it is stated that on the basis of decision taken by Dharmika Parishad, which is the apex body for the Endowments Department, a Trust has been created to propagate and preserve Hindu Dharma by name Hindu Dharma Parirakshana Trust and this trust is also in need of a certain

minimum resources for undertaking various activities for preservation and propagation of Hinduism. Therefore, he requested to dismiss the writ petition.

5. The learned Government Pleader in spite of taking time could not place on record any G.O. or circular issued by the Government for constituting Hindu Dharma Parirakshana Trust.

6. Undoubtedly, Dharma Parirakshana Trust is not a statutory organization and it will not fall within the meaning of Dharmika Parishad constituted under Section 152 of the Act. In any event, Section 70 deals with Common Good Fund. According to Clause 70(1)(a) The Commissioner shall create out of the payments made by the charitable and religious institutions and endowments and by any institution or person-

- (i) in respect of Hindu Charitable Institutions and Religious Institutions and Endowments, a fund to be called the Andhra Pradesh Hindu Charitable and Religious Institutions and Endowments Common Good Fund; and
- (ii) (ii) in respect of other charitable institutions and endowments, a fund to be called the Andhra Pradesh Charitable Institutions and Endowments Common Good Fund;

Clause (1)(b) of Section 70 deals with the Common Good Fund created under item (i) of Clause (a) shall be utilised for the following purposes viz.,

- (i) Dhoopa Deepa Naivedhyam which encompasses renovation, preservation and maintenance including payment of salaries to Archakas of Hindu Charitable and Hindu Religious Institutions or Endowments which are in needy circumstances, and promotion and propagation of purpose and objects connected therewith:

Provided that the amount to be utilized for the above purpose shall not be less than twenty five per centum of the receipts to the said fund during the preceding year;

- (ii) establishment and maintenance of vedapathasalas and schools for the training in archakathwam, adhyapakathwam, veda-parayanikatwam, silpam, vaidyam or like services:
- (iii) Construction of new temples and Kalyanamandapams.

Provided that the amount to be utilized for the purposes mentioned in item (ii) in any year shall not be less than, twenty per centum of the receipts to the said fund during the preceding year.

(c) The Common Good Fund created under item (ii) of clause (a) shall be utilized for the renovation, preservation and maintenance of other charitable institutions or endowments and for the promotion and propagation of purposes and objects connected therewith.

(2) The Commissioner, may on direction from the Government, transfer to the Common Good Fund, any surplus or such portion thereof, as may be specified in the direction, remaining in the Endowments Administration Fund after repayment of the amounts specified in sub-section (3) of section 69.

(3) The Commissioner shall issue a notice demanding the payment of contribution payable towards Common Good Fund basing on the provisions made in the Budget estimate of each institution or endowment in the manner prescribed.

But in the present case, the funds are proposed to be diverted to Hindu Dharma Parirakshana Trust, which is not established under any statutory provision. Therefore, diversion of 2% contribution made by various

institutions covered by the Act to a private organization is contrary to the purpose for which the Common Good fund is created under Section 70 of the Act. Therefore, such diversion of 2% Common Good Fund contributed by various institutions is illegal and arbitrary. Therefore, clause 7(2)(b) of G.O.Rt.No.927 Revenue (Endowments-I) Department, dated 1.10.2015, is set aside.

7. Accordingly, the Writ Petition is allowed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

C. PRAVEEN KUMAR, ACJ

M. SATYANARAYANA MURTHY, J

Dated: 18.07.2019
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{Order delivered by the Hon'ble Sri Justice M. Satyanarayana Murthy }

18.7.2019

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