

THE HON'BLE SRI JUSTICE HARINATH.N

WRIT PETITION No.26353 of 2012

ORDER:

1. The Writ Petition is filed challenging the proceedings issued by the 4th Respondent in R.C. No. A1/4615/2011 dated 05.08.2012. The Petitioner's appointment as a record assistant was terminated w.e.f 05.08.2012.
2. The petitioner was appointed as Record Assistant in the office of the 4th respondent/Sri Bramarambha Mallikarjuna Swamy Varla Devasthanam on compassionate grounds on 30.07.2002. The petitioner married girl of his choice and the marriage was solemnized on 02.10.2010 in a Cathedral Pastorate Church, at Nandyal of Kurnool District. A complaint was filed before Lokayuktha, Hyderabad, vide complaint No.1104/2011/B2 complaining that Rule 3 of AP Charitable and Hindu Religious Institutions and Endowments Office Holders and Servant Service Rules, 2000 is violated as the petitioner concealed his religion at the time of employment on compassionate grounds. The Hon`ble Lokayukta vide orders dated 21.03.2012 in

complaint no 1104/2011/B2 directed the concerned authority to conduct an enquiry and submit the action taken report. The 4th respondent addressed a letter dated 16.05.2012 to the petitioner, vide RC.No.A1/4615/2011, calling upon the petitioner to attend the enquiry on 23.05.2012 at 11.00AM in the chamber of Assistant Executive Officer.

3. The petitioner submitted his explanation that he has not concealed his religion and that his caste and school leaving certificate issued by the competent authorities revealed his caste as Indian, Hindu, Mala, Scheduled Caste Community. Though the enquiry also revealed that the petitioner filed two different cases against the employees of 4th respondent/Devasthanam complaining that he was abused in the name of caste and two different crimes were registered. Those crimes after investigation done by the Officer concerned were closed as false. These issues are not relevant to the facts of the case, however the same cannot be brushed aside by the employer while dealing with delinquent employee. The conduct of the employee and the approach of the employee towards his co employees is essentially

required to be considered in any enquiry against the said employee. The petitioner submitted his explanation and detailed enquiry was conducted by the competent authority, several documents and evidences were considered by the Enquiry Officer and the authority has found the petitioner is liable for action for non compliance of Rule 3 of AP Charitable and Hindu Religious Institutions and Endowments office holders and Servant Service Rules, 2000.

4. Be that as it may, the respondents 3 and 4 issued proceedings on 05.08.2012 terminating the petitioner from services as Record Assistant from the 4th respondent office. Challenging the said termination, the present Writ Petition is filed.
5. The petitioner filed the present writ petition on two grounds that no opportunity was given to the petitioner for defending his case in the departmental enquiry and that he professes Hinduism and he has not converted into Christianity. Marring a girl from Christianity religion ought not to be considered that the petitioner is a converted Christian. The petitioner was granted ample opportunity for submitting his side of version

and the petitioner has not placed the marriage certificate on record either before Enquiry Officer or in the pleadings in the writ petition.

6. I have perused the counter and the documents filed by the respondents.
7. As seen from the copy of Extract of Register of Marriages at Holy Cross Cathedral, Nandyal, filed by the respondents, the name of the petitioner and his wife appeared in the column, the name of the parties and religion as Christian. The petitioner has endorsed his signature in the said registrar. It is also mentioned that one Rt. Rev. Dr. G.T. Abraham appears to have been performed the marriage ceremony. The said extract amply clarifies that the petitioner was conscious of the fact that he is a Christian and his marriage is with a Christian lady and the marriage is solemnized in a church as per the Christian rites and church formalities.
8. The petitioner has not submitted the extract of marriage register. However, the respondents have placed on record the said extract along with the counter. If this Court is to consider the contention of

the petitioner that he has married a Christian girl without converting himself as a Christian, then the marriage ought to have been performed under the provisions of the Special Marriage Act, 1954. The marriage certificate ought to be issued under Section 13 of the Special Marriage Act, no certificate under Section 13 has been issued in the case of the petitioner in so far as his marriage is concerned, this indicates that the petitioner in order to get over Rule 3 of AP Charitable and Hindu Religious Institutions and Endowments office holders and Servant Service Rules, 2000 has taken this plea. The stand of the petitioner is an afterthought and taken only to get over the statutory hurdle in him continuing in service of the 4th respondent.

9. It is trite to refer to Article 16(5) of the Constitution of India.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

10. The 4th respondent has absolute discretionary powers in framing rules for employees and servants of the 4th respondent Establishment. Rule 3 of AP Charitable and Hindu Religious Institutions and Endowments Office Holders and Servant Service Rules, 2000 adequately empowered the 4th respondent to prescribe the service conditions and service rules and Rule 3 mandates that all employees shall follow Rule 3, that every officeholder and servants of a religious institution or endowment shall be a person professing the Hindu Religion and he shall cease to hold office when he ceases to profess the Hindu religion. This rule mandates the employees of the 4th respondent to profess Hinduism and if any employee ceases to be a Hindu or converts into other religion, then his employment with the said religious institution would cease.

11. Insofar as the enquiry report is concerned, it is a fact-finding report and I am not inclined to re-assess the facts in a Writ Petition filed under Article 226 of Constitution of India. Insofar as the action of the respondents 3 and 4 terminating the services of the petitioner is concerned, the respondents act is in

accordance with the constitutional powers, more particularly, Article 16(5) of Constitution of India and the Statutory Power conferred by the Rule 3 of AP Charitable and Hindu Religious Institutions and Endowments office holders and Servant Service Rules, 2000.

12. For the aforementioned facts and circumstances, this Writ Petition is dismissed without costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE HARINATH.N

08.11.2023.
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B/o.KGM

*** THE HON'BLE SRI JUSTICE HARINATH.N**

+WRIT PETITION.No.26353 OF 2012

%08.11.2023

Between:

P.Sudharshan Babu, S/o.late
Rathnam, aged about 36 years, Occ:
Record Assistant (Under the orders
of Termination), Sri Bhramaramba
Mallikarjuna Swamy Varla
Devasthanam, Srisailam, Kurnool
District.

...Petitioner

AND

- 1.** The Government of Andhra Pradesh, Rep.by its Principal Secretary, Endowments Department, A.P.Secretariat, Hyderabad.
- 2.** The Commissioner, Endowments Department, Andhra Pradesh, Boggulakunta, Abids, Hyderabad.
- 3.** The Deputy Commissioner, Endowments Departments, Kurnool.
- 4.** The Executive Officer, Sri Bhramaramba Mallikarjuna Swamy Varla Devasthanam, Srisailam, Kurnool District.

...Respondents

!Counsel for the Petitioner : Sri. Dr.Sireesh Anumula
^Counsel for the Respondents : Sri.G.Ramana Rao Standing
Counsel for Endowments

<Gist:

>Head Note:

? Cases referred:

This Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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3. The Deputy Commissioner, Endowments Departments, Kurnool.
4. The Executive Officer, Sri Bhramaramba Mallikarjuna Swamy Varla Devasthanam, Srisailam, Kurnool District.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 08.11.2023

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE HARINATH.N

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of order may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair copy of the order? Yes/No

JUSTICE HARINATH.N