

PVSSR JAGANNATHA CHARYULU AND ORS.

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v.

STATE OF ANDHRA PRADESH AND ORS.

MAY 9, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

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*Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 :*

*Hindu Law—Archakas and other office holders of temple—Abolition of hereditary rights—Constitution of a Committee for formulation of a scheme for their welfare measures—Execution of Trust Deed—Constitution and functions of Board of Trustees—Direction regarding.*

C

While upholding the constitutional validity of various provisions of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 this Court held that abolition of hereditary rights of Archakas and other office bearers was not unconstitutional.\* This Court also directed that a committee should be constituted to formulate a scheme for the welfare measures in respect of the Archakas and other employees of the temple and their dependents and religious institutions in the State of Andhra Pradesh. A Deed of Trust was designed to be executed with nine members of the Andhra Pradesh Endowments and other Employees Welfare Fund for its due administration.

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Disposing the matter, this Court

HELD : 1. The Chief Secretary to the Government of Andhra Pradesh, the Chairman of the Board of Trustees would approach the Chief Justice of the Andhra Pradesh High Court for nomination of a retired Judge of the Andhra Pradesh High Court to be a member of the Board of Trustees who may suggest the name. [360-A-B]

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2. Nominees of Archakas may be from among the Archakas sponsored by their Associations; one from Andhra Region and another from Telengana region being representative of the employee as is suggested in the Deed of Trust. [360-B-C]

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3. The Government is directed to create a post of Additional Com-

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A missioner, Endowments Department in the office of the Commissioner of Endowments to be filled in from amongst in service officers who would be kept in charge of the day-to-day management of the Trust. [360-E; F]

B 4. Government of India would declare the Trust as notified objectives trust under Section 80-G of the Income Tax Act, 1961 so that 100% exemption is granted to the Trust. On exemption so granted, entire income yielded from the corpus should be expended towards the objectives mentioned in the Deed of Trust. [360-H; 361-A]

C 5. The Committee's suggestion that accounts need to be audited periodically by regular auditors and not by local auditors is appropriate. The Government is directed to modulate appropriate module for conducting regular auditing of the fund and suggest ways and means for the better management of the Trust and proper utilisation of the income towards welfare measures enumerated in the Deed of Trust. [361-C-D]

D 6. All the objectives of the Trust are self-explanatory and eloquent. The terms and conditions and the manner of management of the Trust to cater to the needs of Archakas, employees and their family members etc. in terms thereof are approved. [360-D]

E \*A.S. Narayana Deekshitulu v. State of Andhra Pradesh & Ors., [1996] 9 SCC 548.

CIVIL ORIGINAL JURISDICTION : I.A. No. 2

IN

F Transfer Case No. 38 of 1990.

(Under Article 226 of the Constitution of India)

WITH

G I.A. No. 4.

IN

Writ Petition (C) No. 1090 of 1987.

H D.D. Thakur, P.P. Rao, Hardev Singh, Dr. Gauri Shankar, C. Mukund, T.V. Ratnam, B. Kanta Rao, K. Ram Kumar, C. Balasubramaniam, Mrs.

Asha Nair, V. Balaji, N. Ganpathy, A.T.M. Sampath, Ms. Madhu Moolchandani, S. Markandeya, Mrs. Chitra Markandeya, Ms. Meenakshi Agarwal, A. Subba Rao, A.D.N. Rao, V. Balachandran, Jain Hansaria & Co., P.N. Ramalingam, B. Parthasarthy, Y.P. Rao, Ms. Sadhana Ramachandran, Ms. B. Sunita Rao and Ms. H. Wahi for the appearing parties.

The Judgment of the Court was delivered by

**K. RAMASWAMY, J.** In paragraph 135 in *A.S. Narayana Deekshitulu v. State of Andhra Pradesh & Ors.*, [1996] 9 SCC 548, this Court had directed, in addition to grant of the regular scales of pay, that other welfare measures be formulated and directed the Government to constitute a permanent fund with, sum of Rs. 75 crores to start with, as corpus and to evolve procedure for spending the income to be derived therefrom towards welfare measures in respect of the Archakas, other employees and/or their dependents, as the case may be. A committee was directed to be constituted, as specified in the judgment. In accordance therewith, a committee was constituted by the Government which has formulated a scheme for the welfare measures in respect of the Archakas and other employees of the temple and their dependents and religious institutions in the State of Andhra Pradesh. A Deed of Trust was designed to be executed by the Principle Secretary to the Government, Revenue Department of the State of Andhra Pradesh with the objectives enumerated in the preamble, with nine members of the Andhra Pradesh Endowments Archakas and Other Employees Welfare Fund for its due administration.

It consists of the Chief Secretary to the Government of Andhra Pradesh, Principal Secretary to the Government of Andhra Pradesh, Revenue Department, Secretary to the Government of Andhra Pradesh, Finance Department, the Commissioner, Endowments Department, the Executive Officer of TTD, the F.A. & C.A.O. of TTD, two representatives of the Archakas and one representative of the employees to be nominated by other trustees from time to time. The duration of the nominated committee is three years from the date of the nomination, i.e., with reference to seven to nine. The Chief Secretary shall be the Chairman of the Board of Trustees. The Trust shall be administered and managed by the Board of Trustees. In this behalf, it is suggested that a retired Judge of the Andhra Pradesh High Court may be drafted a member of the Board. It is suggested across the Bar that a retired Judge of the Andhra Pradesh High

- A Court may be nominated by the Government to be a member of the Board of Trustees. His term also would be three years from the date of his nomination. We agree with the suggestion and hold that the Chief Secretary, the Chairman of the Board of Trustees would approach the Chief Justice of the Andhra Pradesh High Court for nomination of a retired Judge of the Andhra Pradesh High Court to be a member of the Board of Trustees who may suggest the name. The Chief Justice may, out of the names suggested or in his own discretion, nominate any of the retired Judges of the Andhra Pradesh High Court as a member of the Board of Trustees. Nominees of Archakas may be from among the Archakas either sponsored by their Associations; one from Andhra Region and another from Telengana region being representative of the employees as is suggested in the Deed of Trust. From the date of the first meeting of the Board of Trustees, his term should begin to run. The objective of the Trust has been mentioned in the deed which we have perused. All the objectives of the Trust are self-explanatory and eloquent. We approve of the terms and conditions and the manner of management of the Trust to cater to the needs of Archakas, employees and their family members etc. in terms thereof. Since it is a full time work, we think that an officer of Additional Commissioner from Endowments Department, from the ranks, should be kept in charge of the managements of the Trust, to assist the Board of Trustees in the day-to-day management with sufficient secretariat staff. Shri P.P. Rao, learned senior counsel for the State, has agreed to the suggestion; and if recommendation is made, the Government will create a post of Additional Commissioner in this behalf. We, accordingly, direct the Government to create a post of Additional Commissioner, Endowments Department in the office of the Commissioner of Endowments to be filled in from amongst in-service officers who would be kept in charge of the day-to-day management of the Trust and would be responsible for due implementation with sufficient establishment needed from time to time as may be considered appropriate by the Government in this behalf.

- It is also suggested that a direction may be given to Government of India to grant 100% exemption from income tax, as notified objectives, under Section 80-G of the Income Tax Act. The suggestion given is appropriate and we agree with and approve the same.

- The Government of India would declare the Trust as notified objectives trust under Section 80-G of the Income Tax Act, 1961 so that 100%

exemption is granted to the Trust. On exemption so granted, entire income yielded from the corpus should be expended towards the objectives mentioned in the Deed of Trust. All the objectives being charitable and welfare in nature, the Government of India through the appropriate Ministry concerned would grant all necessary exemptions under Section 80-G of the Income Tax Act or any other relevant provisions. They should approach in the first instance the Commissioner of Income Tax, Hyderabad who is directed to send necessary recommendations after examination to the Ministry of Finance to grant exemption under Section 80-G or any other relevant provision of the Income Tax Act.

It is next suggested that accounts need to be audited periodically by regular auditors and not by local auditors. We think that the suggestion is appropriate. The Government is directed to modulate appropriate module for conducting regular auditing of the fund and suggest ways and means for the better management of the Trust and proper utilisation of the income towards welfare measures enumerated in the Deed of Trust. The covenants of the Deed of Trust are reiterated in the report.

The order is accordingly passed.

T.N.A.

Petition disposed of.