

HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION Nos.25351 OF 2021 AND 7296 OF 2022

COMMON ORDER :

W.P. No.25351 of 2021 is filed to declare action of respondent Nos.1 to 3 in granting permission for reconstruction of Sree Mahalakshmi Temple, Feelkhana, Hyderabad, to respondent No.6 - Srimali Brahman Nyati Sangh, Sree Mahalakshmi Temple, Feelkhana, Goshamahal, Hyderabad, vide proceedings Rc.No.H2.5395/2018 dated 04.09.2018.

2. W.P. No.7296 of 2022 is filed to declare action of respondent Nos.1 to 3 in granting permission for demolition and reconstruction of Sree Mahalskhmi Temple, Feelkhana, Hyderabad, vide proceedings Rc.No.H7/5395/2018 dated 19.01.2022.

3. The petitioners in W.P. No.25351 of 2021 claim to be tenants of Sree Mahalakshmi Temple, Feelkhana, Goshamahal, Hyderabad (hereinafter referred to as “Temple”). The petitioners also claim to be devotees and inmates of the Temple.

The petitioners in W.P. No.7296 of 2022 claim to be devotees of the Temple.

4. It is not in dispute that the Temple is endowed property as per File No.15/2-31 I Awkaf of 1358 Fasli (dated 17.02.1959) recorded in Muntakhab Kitabul Awkaf of the office of the Superintendent, Awkaf - Government Religious Affairs Department.

5. The case of the petitioners is that respondent No.2 - the Commissioner, Endowments Department, Boggulkunta, Tilak Road, Hyderabad, has accorded permission by the impugned proceedings for demolition of old structure and reconstruction of the Temple which includes shops and open place admeasuring 860 square yards. The petitioners did not have knowledge of the impugned permission granted to Srimali Brahman Nyati Sangh and Sree Mahalakshmi Temple authorities. When an attempt was made to evict the petitioners from the Temple, they have filed W.P. Nos.31120 of 2015 and 41408 of 2016 which were disposed of by the order dated 30.11.2016 directing the respondents to issue fresh

notification in respect of auction of leasehold rights of the property in question and left open for the petitioners to participate in the auction. The petitioners are dependent on their petty business running in the leased out premises of the Temple. The petitioners have submitted their respective objections dated 27.08.2021 and 28.08.2021 pursuant to the caution notice dated 30.07.2021 but the respondents have not considered their objections and there is threat of eviction by the respondents.

(i) The petitioners sought a direction not to demolish their shops bearing Nos.15-8-298 to 308, Sree Mahalakshmi Temple, Feelkhana, Ghoshamahahal, Hyderabad, without following due process of law.

(ii) The case of the petitioners in W.P. No.7296 of 2022 is that the Temple society has filed a civil suit in O.S. No.1 of 1996 on the file of IV Assistant Judge, City Civil Court, Hyderabad to declare the proceedings in Rc.No.D/5289/95 inviting applications to constitute a Trust Board for the Temple. The said suit was returned by the Court. The Temple Society preferred appeal in

C.M.A. No.252 of 1996 on the file of the Chief Judge, City Civil Court, Hyderabad, and the same was dismissed on 27.01.1997 directing the Temple to approach the competent authority. The Temple filed revisions in R.P. Nos.38 of 1997 and 39 of 1997 before the Regional Joint Commissioner challenging appointment of Executive Officer as Single Trustee of the Temple and against the notification for constitution of a Trust Board for the Temple. The said revisions were dismissed on 02.12.1997.

(iii) The Temple filed O.A. No.56 of 1997 before the Deputy Commissioner, Endowment Department, to declare the society as founder of the Temple. The suit was ordered on 23.05.2008 by the Deputy Commissioner holding that the Temple is an endowed property, but it is denominational in character belonging to Srimali Brahim Community, and the Society is entitled to manage the institution. The said order was confirmed by the Commissioner of Endowments under Section 87(3) of the Act 33/2007 by reserving rights to appoint an Executive Officer, by the order dated 28.07.2008.

(iv) It is submitted that there is a threat from the Society to convert the Temple exclusively for its own community and put an embargo on the general public from performing pooja. The official respondents are hand in glove with the Temple Society and trying to demolish the Temple in the guise of the impugned proceedings.

6. Respondent No.3 - the Assistant Commissioner of Endowments, Bogulkunta, Tilak Road, Hyderabad; the Temple (respondent No.5 in W.P. No.25351 and respondent No.4 in W.P. No.7296 of 2021), Srimali Brahman Nyati Sangh (respondent No.6 in W.P. No.25351 of 2021 and respondent No.5 in W.P. No.7296 of 2021) filed counter specifically contending that the petitioners do not have *locus standi* to challenge the impugned proceedings. *Inter alia*, it is submitted that the Commissioner of Endowments is empowered to take necessary steps for better administration and protection of institutions under Section 8 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987 which reads as under:

“8. Powers and functions of Commissioner and Additional Commissioner –

(1) Subject to the other provisions of this Act, the administration of all charitable and Hindu religious institutions and endowments shall be under the general superintendence and control of the Commissioner and such superintendence and control shall include the power to pass any order which may be deemed necessary to ensure that such institutions and endowments are properly administered and their income is duly appropriated for the purposes for which they were found or exist.

(2) Without prejudice to the generality of the foregoing provisions, the Commissioner shall exercise the powers conferred on him and perform the functions entrusted to him by or under this Act in respect of such institutions or endowments in the State as are included in the lists published under clause (a), clause (d) and clause (e) of section 6.

(3) The powers and functions of the Additional Commissioner shall be such as may be determined by the Government from time to time.

(4) The Commissioner may delegate to a Deputy Commissioner any of the powers conferred on or functions entrusted to the Commissioner by or under this Act including the powers and functions of an Assistant Commissioner which may be exercised or performed by the Commissioner under sub-section (5) but not including the power and functions of the Commissioner under sub-section (1), sections 6, 15, 49, 51, 66, 90, 92 and 132 in respect of any institution or endowment or any class or group of institutions or endowments in the State, subject to such restrictions and control as the Government may, by general or special order lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

(5) The Commissioner may delegate to an Assistant Commissioner any of the powers conferred on or functions entrusted to the Commissioner by or under this Act except the powers and functions of the Commissioner under sub-section (1), sections 6, 15, 49, 51, 66, 90, 92 and 132 in respect of any institution or endowment in the sub-division in charge of the Assistant Commissioner subject to such restrictions and control as the Government may, by general or special order, lay down and subject

also to such limitations and conditions if any, as may be specified in the order of delegation.

(6) Notwithstanding anything in sections 10 and 11, the Commissioner may, by order in writing, declare that the exercise and performance of all or any of the powers or functions by the Deputy Commissioner or the Assistant Commissioner, as the case may be, shall be subject to such exceptions, limitations and conditions as may be specified in the order and he may himself exercise any power or perform the functions so excepted.”

(i) Caution notice was issued on 30.07.2021 calling upon the general public to furnish any objections or suggestions in respect of the proposed reconstruction of the Temple. Objections were submitted by the petitioners (more particularly petitioner No.3 in W.P. No.7296 of 2022) and the same were rejected vide report in File No.D/853/2012-I dated 26.10.2021.

(ii) In the counter affidavit filed in W.P.No.25351 of 2021, it is asserted that the petitioners were evicted on 20.03.2021 by following due process of law and that the plea of the petitioners that they are inmates of the Temple is denied.

7. Heard Ms. Nargis Afshan Khan, learned counsel for the petitioners in both the writ petitions; Mr. Bankatlal Mandhani, learned counsel for respondent No.6 in W.P. No.25351 of 2021 and respondent No.5 in W.P. No.7296 of 2022; Mr. Kotha Jaganmohan Reddy, learned Standing Counsel for Endowments - respondent No.4 Temple; and learned Assistant Government Pleader for Endowments, and perused the material on record.

8. The learned counsel for the petitioners submitted that the petitioners are tenants / inmates / devotees of the Temple and they have got *locus standi* to file these writ petitions.

9. On the other hand, the learned counsel for respondent No.6 in W.P. No.25351 of 2021 and respondent No.5 in W.P.No.7296 of 2022 submitted that the petitioners cannot be treated as aggrieved persons. The petitioners in W.P.No.25351 of 2021 claim to be tenants of the Temple and the petitioners in W.P. No.7296 of 2022 claim to be devotees / inmates of the Temple. The learned counsel submits that so far as renovation / reconstruction of the Temple is concerned, the petitioners, who

claim to be tenants / inmates / devotees, do not have *locus standi* as they do not have any interest / grievance whatsoever to challenge the impugned proceedings; they are in no way adversely affected, and therefore, both the writ petitions are liable to be dismissed.

10. The point that arises for consideration is whether the petitioners have *locus standi* to challenge the impugned proceedings?

11. In **Jakka Taraka Mallikharjuna Rao v. State of A.P.**¹, while considering the issue of *locus standi*, the following observations were made:

“It is no doubt true that the concept of *locus standi* cannot be so liberally adopted. Here is a matter where the Institution approached the Government by making representations and on the strength of such representations, the impugned Memo had been made. The beneficiaries or devotees normally would be interested in the religious institution or a charitable institution. There may be several irregularities or illegalities. However, a broad proposition that a devotee or a worshipper at no point of time would be the

¹ 2008 (1) ALD 297

affected party or the aggrieved party or such party would not fall under the definition of “person having interest”, cannot be laid down. It is suffice to state that this would depend upon the facts and circumstances of a particular given case.”

12. In **Jasbhai motibhai Desai v. Roshan Kumar**², the Hon’ble Supreme Court while dealing with the expression of “aggrieved person”, made following observations:

“12. According to most English decisions, in order to have the locus standi to invoke certiorari jurisdiction, the petitioner should be an "aggrieved person" and in a case of defect of jurisdiction, such a petitioner will be entitled to a writ of certiorari as a matter of course, but if he does not fulfil that character, and is a "stranger", the Court will, in its discretion, deny him this extraordinary remedy, save in very special circumstances. This takes us to the further question: Who is an "aggrieved person"? And what are the qualifications requisite for such a status? The expression "aggrieved person" denotes an elastic, and, to an extent, an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. At best, its features can

² AIR 1976 sc 578

be described in a broad tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him. English Courts have sometimes put a restricted and sometimes a wide construction on the expression "aggrieved person". However, some general tests have been, devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or 'standing' to invoke certiorari jurisdiction.

13. We will first take up that line of cases in which an "aggrieved person" has been held to be one who has a more particular or peculiar interest of his own beyond that of the general public, in seeing that the law is properly administered. The leading case in this line is (1870) 5 QB 466 *Queen v. Justices of Surrey* decided as far back as 1870. There, on the application by the highway board the Justice made certificates that certain portions of three roads were unnecessary. As a result, it was ordered that the roads should cease to be repaired by the parishes.

27. In *Bar Council of Maharashtra v. M.V. Dabholkar* (1975) 2 SCC 703 = (AIR 1975 SC 2092) a Bench of seven learned Judges of this Court considered the question whether the Bar Council of a State was a 'person aggrieved' to maintain an appeal under Section 38 of the Advocates' Act, 1961. Answering the question in the affirmative, this Court, speaking through Ray C.J., indicated how the expression "person aggrieved" is to be interpreted in the context of a statute, thus:

"The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make one "a person aggrieved". Again a person is aggrieved if a legal burden is imposed on him. The meaning of the words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of private legal rights. The restricted meaning requires denial or deprivation of legal rights. A more liberal approach is required in the back ground of

statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council under the Advocates' Act is comparable to the role of a guardian in professional ethics. The words "person aggrieved" in Sections 37 and 38 of the Act are of wide import and should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests."

13. In the light of the principle of law laid down by the Hon'ble Supreme Court in **Jasbhai Motibhai Desai's Case** (Supra 2), this Court is of the opinion that the petitioners who claim to be tenants / inmates / devotees cannot be treated as aggrieved persons so as to challenge the impugned proceedings. The petitioners do not have any interest / grievance whatsoever in renovation / reconstruction of the Temple. Neither legal injury is caused to the petitioners nor their legal rights are infringed. The petitioners, who claim to be tenants, in W.P. No.25351 of 2021 are stated to have been evicted by following due process of law and that the premises is under lock and key of the Endowment Department. No reply is filed by the petitioners to the assertion of the temple in their counter affidavit that the petitioners have been evicted on

20.03.2021. Further, the petitioners in W.P. 7296 of 2022, who claims to be devotees, by any stretch of imagination, cannot be said to be aggrieved persons. Thus, there are no merits in both these writ petitions and they are accordingly dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in both the writ petitions stand closed.

B. VIJAYSEN REDDY, J

April 7, 2022.

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**IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD**

**WRIT PETITION Nos.25351 OF 2021
AND 7296 OF 2022**

Between:

Shivaji Biradar & 5 others

.. Petitioners

v.

The State of Telangana,
Rep. by its Principal Secretary
Department of Endowment,
Secretariat, Hyderabad & 5 others

.. Respondents

DATE OF ORDER PRONOUNCED: 07-04-2022

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : No
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals. : Yes
3. Whether Their Ladyship/Lordship wish
to see the fair copy of the Judgment? : Yes

B. VIJAYSEN REDDY, J

*** HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY**
+ WRIT PETITION Nos.25351 OF 2021 AND 7296 OF 2022

% Date: 07-04-2022

Shivaji Biradar & others .. Petitioners

v.

\$ The State of Telangana,
Rep. by its Principal Secretary
Department of Endowment,
Secretariat, Hyderabad & others .. Respondents

! Counsel for the Petitioners : Ms. Nargis Afshan Khan

^ Counsel for Respondent Nos.1 to 3 : AGP for Endowments
in W.P. No.25351 of 2021 &
Respondent Nos.1 to 4 in
W.P. No.7296 of 2022

Counsel for respondent No.5
in W.P. No.25351 of 2021 &
respondent No.4 in
W.P. No.7296 of 2022 : Mr. Kotha Jaganmohan Reddy

Counsel for respondent No.6
in W.P. No.25351 of 2021 &
respondent No.5 in W.P. No.7296 of 2022 : Mr. Bankatlal Mandani

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> HEAD NOTE:

? CASES REFERRED:

1. 2008 (1) ALD 297
2. AIR 1976 SC 578

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