

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No. 25543 of 2021

**Between:**

B.V. Rami Reddy and others

.. Petitioners

Vs.

The State of Andhra Pradesh,  
Revenue (Endowments-II) Department,  
Secretariat, Velatgapudi, Amaravati,  
rep. by its Principal Secretary and others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 31.03.2022

**SUBMITTED FOR APPROVAL:**

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

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

**VENKATESWARLU NIMMAGADDA, J**

\*THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

+Writ Petition No. 25543 of 2021

% 31-03-2022

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.. Petitioners

Vs.

\$ The State of Andhra Pradesh,  
Revenue (Endowments-II) Department,  
Secretariat, Velatgapudi, Amaravati,  
rep. by its Principal Secretary and others

.. Respondents

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>HEAD NOTE:

! Counsel for petitioners	: Sri M. Vidyasagar
^ Counsel for respondent Nos.1&2	: The Government Pleader for Endowments
^ Counsel for 3 <sup>rd</sup> respondent	: Sri G. Ramana Rao
^ Counsel for respondent Nos.4 to 9	: Sri M. Chalapati Rao

? CASES REFERRED :

- 1) 2010 (4) ALT 510 (S.B)
- 2) 2012 (5) ALD 445
- 3) AIR 1978 SC 597
- 4) 1991 AIR 1153

**HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA****WRIT PETITION No. 25543 of 2021****ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus declaring the action of the 1<sup>st</sup> respondent in issuing G.O.Rt.No.645, Revenue (Endowments.II) Department, dated 07.10.2021 constituting a Renovation Committee to the 3<sup>rd</sup> respondent temple by appointing respondent Nos.4 to 9 as its members, as illegal and arbitrary.

2. The case of the petitioners, in brief, is that the petitioners hail from the family of Beeram Chenna Reddy, who was principally responsible for construction of the 3<sup>rd</sup> respondent temple. The 3<sup>rd</sup> respondent temple is situated in the land admeasuring Ac.1.80 cents which belongs to Beeram Chenna Reddy and Acs.4.85 cents was also endowed by the son of said Beeram Chenna Reddy. The 3<sup>rd</sup> respondent temple was brought under Section 6 (a) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). As the income of the temple is more than Rs.1.00 crore, it has come under the jurisdiction of the Endowments Department and it is empowered to constitute a Board of Trustees under Section 15 of the Act. The day to day activities and the amounts derived are being looked after by the Executive Officer of the temple. While so, all of a sudden, the 1<sup>st</sup> respondent issued G.O.Rt.No.645, Revenue (Endowments.II) Department, dated 07.10.2021, constituting a Renovation Committee to the 3<sup>rd</sup> respondent temple by appointing respondent Nos.4 to 9 as its members, under Section 146 of the Act for undertaking the reconstruction work of the temple, without giving any opportunity to the petitioners and the Beeram family who were associated with the temple in many of its activities, though the renovation work was undertaken by the Executive Officer of the temple by taking necessary permissions from the 2<sup>nd</sup> respondent and it reached the stage of completion. Obviously, no applications were called for from the public in general to be appointed as members of the Renovation Committee and only on a letter given by the 2<sup>nd</sup> respondent, the Renovation Committee was constituted. The impugned proceedings do

not even satisfy the basic requirement as to whether respondent Nos.4 to 9 possess necessary qualifications under Section 18 of the Act and do not come under the ambit of Section 19 of the Act and do not speak about any enquiry conducted on the members to adjudicate their antecedents. The Renovation Committee was constituted as per the whims and fancies of the 1<sup>st</sup> respondent and the impugned G.O. was issued at the behest of a local public representative. The impugned G.O. also does not specify the term of the office of the Renovation Committee and it is ex-facie illegal. Hence the writ petition.

3. The 2<sup>nd</sup> respondent filed a counter affidavit denying the averments made in the writ affidavit and stating that the Beeram family filed W.P.No.9501 of 2010 against the Endowments Department and the said writ petition was disposed of on 27.11.2013 by the learned single Judge extending the interim order already granted on 26.04.2010. The said direction was set aside by the Division Bench of this Court by its order dated 10.12.2013 in W.A.No.1890 of 2013. It is also stated that the 2<sup>nd</sup> respondent issued a notice calling for applications for constituting the Board of Trustees to the subject temple and in W.P.No.38096 of 2013 filed by one Beeram Janardhana Reddy, this Court suspended the said notice issued by the 2<sup>nd</sup> respondent. Section 146 of the Act empowers the State Government to constitute a Renovation Committee. The Renovation Committee Rules are not prescribing that applications have to be called for or the publication is to be made for appointment of the members of the Renovation Committee. The power of the Government to appoint a Renovation committee is unfettered and the members to be appointed have to possess the qualifications mentioned under Section 18 of the Act and free from disqualification as specified under Section 19 of the Act. The Assistant Commissioner, Endowments Department, Kurnool in his report dated 07.07.2021 stated that the Garbhalayam works are under progress and only 50% of the works were done and some of the works are yet to be started. He found that there is necessity to provide amenities to the devotees and suggested for appointment of a Renovation Committee with six members for a period of three years. Considering all these aspects, the Renovation Committee was appointed by the 1<sup>st</sup> respondent. A reasonable and prudent exercise was made in appointing respondent Nos.4 to 9 as members of the Renovation Committee. Rule 3 of the Renovation committee Rules is emphasizing only

Section 18 and 19 of the Act i.e., qualification and disqualification of the members. Nowhere the rules are prescribing to follow Section 15 which is intended to invite applications from the general public for appointing them as members to the Committee, which is meant for constitution of Board of Trustees. Section 15 of the Act is no way relevant to constitution of Renovation committee which is done as per Section 146 of the Act. Therefore, the G.O. issued by the 1<sup>st</sup> respondent cannot be found fault with. In view of the above, the 2<sup>nd</sup> respondent prays to dismiss the writ petition.

4. Respondent Nos.4 to 9 filed a counter affidavit reiterating the contentions raised by the 2<sup>nd</sup> respondent and sought for dismissal of the writ petition and sought for dismissal of the writ petition.

5. Heard learned counsel for the petitioners, learned Government Pleader for Endowments appearing for respondent Nos.1 and 2, learned standing counsel for the 3<sup>rd</sup> respondent, and learned counsel for respondent Nos.4 to 9.

6. Learned counsel for the petitioners contends that the subject Renovation Committee, which was constituted under Section 146 of the Act vide G.O.Rt.No.645 dated 07.10.2021, is also a statutory committee. He further contends that the Renovation Committee has been constituted without any involvement being given to the persons interested and without calling for any applications from the interested persons to be part of the said Committee, even though they parted with the donations and contributions for ongoing renovation works of the subject temple and a major part of the renovation work has already been completed under the supervision of the Executive Officer of the 3<sup>rd</sup> respondent temple after obtaining necessary plans and permissions for such renovation work and as of now there is no necessity to constitute the Renovation Committee. The learned counsel also contends that as the petitioners' family is a founder's family of the temple, they should have been appointed as members of the Renovation Committee, since they are being involved in the affairs of the 3<sup>rd</sup> respondent temple for the past few generations. Therefore, on the grounds of non-consideration of the persons who are interested and who parted with the huge donations for the renovation work of the temple and

constitution of the Renovation Committee on a mere recommendation of the local public representative without following the procedure as contemplated and required under Sections 18 and 19 of the Act, under which the antecedents, qualifications and eligibility of the proposed members to be appointed should be enquired. In the absence of the fair exercise as stated above, the Renovation Committee is liable to be quashed. In support of his contentions, the learned counsel for the petitioners relied upon a judgment of the combined High Court of Andhra Pradesh at Hyderabad rendered in *Pagadala Pratap Vs. State of A.P.*<sup>1</sup> wherein this Court set aside the impugned G.O. therein for violation of statutory provisions of the Act 30 of 1987 and the Trustee Rules, on the ground of abdication of duty and non application of mind by the competent authority i.e., the Government by accepting the recommendations made by the Minister of Information and Public Relations for such constitution of the Board of Trustees.

7. On the other hand, learned Government Pleader for the official respondents submits that the power of the 2<sup>nd</sup> respondent under Section 146 of the Act is unfettered, as such, by exercising his power he constituted the Renovation Committee by following the required procedure under Section 146 of the Act. She contends that no specific procedure for constitution of Renovation Committee is envisaged under the Act 30/1987 and the members, who are appointed in this subject Committee, are eligible under Section 18 of the Act and not suffered any disqualification as per Section 19 of the Act and after verification of their antecedents, the Committee has been constituted by the 1<sup>st</sup> respondent. Moreover, no procedure for constitution of the Board of Trustees as envisaged under Rules 6 and 8 of the Renovation Committee Rules, 1987 (for short “the Rules”) issued under G.O.Ms.No.649, Revenue (Endowments-I) Dated 30.06.1989 and Section 15 of the Act need be followed. Therefore, publication of notice as well as receipt of applications from the public are not at all necessary and the recommendation of the local representative for appointment of the members of the Committee cannot be vitiated. She relied on a judgment of the combined High Court of Andhra Pradesh rendered in *P. Madhubabu Vs. Commissioner of Endowments, Endowments Department, Hyderabad*<sup>2</sup> wherein this Court

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<sup>1</sup> 2010 (4) ALT 510 (S.B)

<sup>2</sup> 2012 (5) ALD 445

upheld the constitution of Board of Trustees therein, even though the names of members were recommended by the local representative and the then Minister concerned. As long as the members are eligible under Sections 18 and 19 of the Act, even though they were recommended by public representative, they do not suffer any disability. Hence, in view of the aforesaid judgment, the writ petition is liable to be dismissed.

8. Learned counsel for the unofficial respondents contends that either under Section 146 of the Act or under the Rules, no public notice is required to be issued inviting applications from the persons interested for being appointed as members of the Renovation Committee. As such, the contention of the petitioners that the petitioners as well as other interested persons were not at all considered for constitution of the Renovation Committee, does not arise. He further contends that the 1<sup>st</sup> respondent is having an unfettered power to constitute the Renovation Committee for carrying out the renovation work of the temple. He further contends that 50% of the renovation work of Garbhalayam only was completed and many other works as enumerated in the proceedings of the 1<sup>st</sup> respondent denote that they are still pending. As such, there is very much requirement of constitution of the Renovation Committee in the absence of Board of Trustees for completion of the renovation work by collection of donations/contributions from the public at large. He further contends that mere forwarding the names of the persons concerned for appointment of members of the Renovation Committee by the local public representative would not attract any disqualification for their appointment as members of the Renovation Committee and as contended by the learned Government Pleader, they are all well qualified and eligible for such appointment under Sections 18 and 19 of the Act. He relied upon an unreported judgment of the combined High Court of Andhra Pradesh at Hyderabad in *Cheviti Anjaneyulu Vs the State of Telangana* (W.P.No.5692 of 2018 dated 08.11.2018) wherein this Court held that the procedure for constitution of Renovation Committee need not be followed as contemplated under Section 15 of the Act and Rules 6 and 8 of the Rules and the Government is having unfettered power under Section 146 of Act for constitution of the Renovation Committee. He, therefore, prays to dismiss the writ petition.

9. Having heard the learned counsel for the parties, it would be useful to refer to certain provisions of Act 30/1987. Section 146 of the Act 30/1987 deals with constitution of renovation committee as its liability. Sub-sections (1) and (2) of Section 146 of the Act read as under:

*“146. Constitution of Renovation Committee and its liability:- (1) The Government may constitute a renovation committee to any religious or charitable institution consisting of persons with qualifications prescribed in Section 18 and subject to qualifications specified in Section 19.*

*(2) The composition of the committee, the term of the office of the members of the committee and other matters relating to the functions of the committee shall be such as may be prescribed.*

10. Sub-section (1) of Section 146 of the Act prescribe that the Government would constitute a renovation committee to any religious or charitable institution consisting of persons with qualifications prescribed in Section 18 and subject to disqualifications specified in Section 19. Therefore, even for appointment of a person as member of the renovation committee, he should satisfy the tests laid down in Sections 18 and 19. Section 18 of the Act which deals with qualification of trusteeship prescribed that a person to be appointed as a trustee should have faith in God, possess good conduct, reputation and commands in the locality, should have contributed for construction, renovation or development of any institution or performance, should have sufficient time and interest to attend the affairs of the institution and lastly he should possess any other merit. Section 19 prescribes various conditions for disqualification of a member.

11. The Renovation Committee is to be considered as good as the Board of Trustees in respect of constitution of the Committee, since it is also a statutory committee. The functions and duties of the Renovation Committee are enumerated under Rules 7, 8 and 9 of the Rules. Under Rule 7 of the Rules, the Committee shall have the functions of preparing plans for construction work of the institutions, supervising the works, raising and collecting donations from the worshippers and others for the proposed renovation and construction works of the institution, advising and assisting the Board of Trustees, if any, with constructive suggestions for the proper execution of the works, and deciding as to and in which manner the donations

collected have to be spent for the renovation works of the institution. Under Rule 8 of the Rules, the Chairman of the Committee shall carry out the correspondence with the Committee in his name and draw up and issue an appeal to the public and other religious institutions for donations for the renovation work of the institution. Under Rule 9 of the Rules, every member of the Committee is authorized to collect donations from public for the renovation work of the institution. Having viewed the above Rules, it is the opinion of the Court that the functions and duties of the Renovation Committee indicate that it is nothing but holding the status of fiduciary position and it requires public trust for collection of donations and for utilization of the same, since the entire funds are collected from the public at large.

12. Whereas, the most interested factor is that the note file shows that a Member of the Legislative Assembly of the area had addressed a letter to the Commissioner of Endowments for constitution of a renovation committee and suggested the names for being appointed to the renovation committee. Thereupon, proceedings were initiated and the persons, who were recommended by the Member of the Legislative Assembly, had been appointed as renovation committee.

13. *Prima facie*, the constitution of the Renovation Committee without any opportunity being given to the persons interested and other devotees who are participating in the ongoing renovation works of the 3<sup>rd</sup> respondent temple, does not meet the requirements of ensuring adequate opportunity being given to all such persons. The procedure set out for constituting a Trust Board for an institution under the Act, requires widespread publicity and opportunity being given to all the persons who are interested to apply for being appointed to the Board of Trustees. The wholesome principle required to be applied even for constitution of a Renovation Committee also. Even though such procedure expressly not contemplated under the Act as well as under the Rules for constitution of the Renovation Committee, but the principle and the procedure adopted for constitution of the Board of Trustees under Section 15 of the Act and Rules 6 and 8 of the Rules are to be followed, since the requirement of procedure and suitability of members are in accordance with Sections 18 and 19 as contemplated to the members of the Board of Trustees.

14. In *P. Madhubabu case* (2 supra) this Court upheld the constitution of the Board of Trustees consisting of three members and even though there is a recommendation by a public representative, but this Court gave an analogy of reason that out of three members recommended by the local representative, only one member was considered and other two members were picked up by the authority by application of mind. As such, there is no abdication of duty and non-application of mind by the competent authority. The said judgment is not at all applicable to the present case on hand, because in the present case, the members who were recommended by the local public representative all were appointed as members of the Renovation Committee without any omissions or additions and without application of mind.

15. In *Cheviti Anjaneyulu case* (referred to supra), it is held that the members of the Renovation Committee have been suggested by the Commissioner of Endowments after enquiry and due verification of antecedents of the members of that Committee, whereas in the present case, the recommendation for appointment of members of the Renovation Committee by a local public representative was taken into consideration without having proper verification and antecedents of the members of the Renovation Committee as required under Sections 18 and 19 of the Act. Moreover, all the persons who were recommended by the local representative were appointed. As such, the judgment relied upon by the learned counsel for the unofficial respondents, is not at all applicable to the case on hand.

16. This Court, after going through Section 146 of the Act as well as the Rules, is of the view that the Renovation Committee, which is a statutory committee, is required to discharge fiduciary duties and it should gain the utmost trust from the public at large, since the Committee would collect donations and contributions from them. As such, the consent and acceptability of the persons interested, the persons already parted with donations/contributions and the devotees is very much required for constitution of the Renovation Committee. This wholesome object can be achieved only after providing an opportunity to them by giving widespread publication or by conducting meetings for selection of the members from the persons interested, existing participants of the renovation works, donors and contributors. Therefore, this Court can safely

hold that the concept of Reasonableness was not followed by the 1<sup>st</sup> respondent who exercised its power under Section 146 of the Act while appointing the present committee.

17. It is observed from the facts of the case that the renovation work of the temple has already started and so many persons and devotees must have donated their hard earned money at the request of the Executive Officer of the 3<sup>rd</sup> respondent temple, who is supervising the entire renovation work till today, having trust upon him. So, the persons, who are interested and involved in the renovation work of the temple, cannot be deprived of their right to be participated in the renovation works and to be appointed as members of the Renovation Committee. There is an obligation on the part of the official respondents to provide an opportunity to all the persons interested for selection of members of the Renovation Committee. It can be held that the present Renovation Committee without providing opportunity to the persons interested and devotees who are participants of the ongoing renovation work, is nothing but against the will and wish of them, since it has been constituted on a mere recommendation of a local representative.

18. For the reasons stated above, this Court is of the opinion that after completion of a major part of the renovation work in respect of the 3<sup>rd</sup> respondent temple, there is no necessity of constituting the Renovation Committee, more particularly upon the recommendation of the local representative. Therefore, the power exercised by the 1<sup>st</sup> respondent is against the concept of reasonableness which is a well recognised principle of law of administration. The said principle was observed by the Hon'ble Supreme Court in *Smt. Menaka Gandhi Vs. Union of India*<sup>3</sup>. The concept of reasonableness runs like a golden thread through the entire fabric of fundamental rights and finds that this concept of reasonableness is a positive manifestation and expression in the lofty ideal of social and economic justice which inspires and animates the constructive principles. So, the concept of reasonableness runs through the totality of Articles 14 and 19 of the Constitution. The said principle was further held by the Hon'ble Apex Court in *G.B.Mahajan Vs. Jalgaon Municipal Corporation*<sup>4</sup> wherein the Hon'ble Supreme Court observed that the reasonableness and administrative law imposed, therefore, to distinguish

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<sup>3</sup> AIR 1978 SC 597

<sup>4</sup> 1991 AIR 1153

between proper use and improper use of power. In the present case, the action on the part of the 1<sup>st</sup> respondent is not in accordance with the concept of reasonableness. Therefore, either failure to exercise proper use of power or improper use of power constitutes unreasonableness. As such, the 1<sup>st</sup> respondent exercised its power in improper manner and which constitutes unreasonableness.

19. In the facts of the present case, the Executive Officer of the 3<sup>rd</sup> respondent temple already spent huge amount, which was collected from the participants of the renovation works, devotees of the temple, other individual and residents of the village, who intended to renovate/reconstruct the 3<sup>rd</sup> respondent temple. But on the recommendation made by the local public representative, the 1<sup>st</sup> respondent had constituted the Renovation Committee without verifying the antecedents and credentials of the members of the Renovation Committee and without participation of members who are on the job. Hence, the necessity of public trust is very much required to achieve the wholesome object of completion of renovation work of the temple by collecting donations and contributions from the public at large. Moreover, the trust of public should be kept intact even for spending of amount collected so far in a manner and method already prepared and planned by the 3<sup>rd</sup> respondent and other active participant members. Therefore, the action of the 1<sup>st</sup> respondent is also against the principle of doctrine of public trust, which is another notable principle of Administrative Law.

20. Accordingly, the Writ Petition is allowed and the impugned order of the 1<sup>st</sup> respondent in G.O.Rt.No.645, Revenue (Endts.II) Department, dated 07.10.2021, is quashed. There shall be no order as to costs.

21. As a sequel, miscellaneous applications, if any, pending shall stand closed.

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**VENKATESWARLU NIMMAGADDA, J**

31<sup>st</sup> March, 2022

Note: LR copy be marked.

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HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

31<sup>st</sup> March, 2022

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