

## **Gundala Satyanarayana Vs The State of Andhra Pradesh and Kongara Subramanyam**

**Court:** Andhra Pradesh High Court

**Date of Decision:** June 20, 2012

**Acts Referred:** Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 " Section 15, 17, 17(1), 17(3), 20

**Citation:** (2012) 6 ALT 102

**Hon'ble Judges:** G. Bhavani Prasad, J

**Bench:** Single Bench

**Advocate:** B. Mayur Reddy, for the Appellant; S. Syamsunder Rao, for the Respondent

**Final Decision:** Dismissed

### **Judgement**

@JUDGMENTTAG-ORDER

G. Bhavani Prasad

1. Heard Sri B. Mayur Reddy, learned counsel for the petitioner, Sri P.C. Reddy, learned Assistant Government Pleader for Endowments for

respondents 1 and 2 and Sri S. Syam Sunder Rao, learned counsel for the 3rd respondent. The petitioner claims to be belonging to Gundala

family, who for generations were the hereditary trustees of Sri Singarutla Lakshmi Narasimha Swamy Temple, Petasannigandla, Karampudi

Mandal, Guntur district with the petitioner's great grand father being declared as hereditary trustee in O.S. No. 88 of 1914. As per the scheme

decree in O.S. No. 1 of 1931, the father of the petitioner was recognized as the hereditary trustee by the Assistant Commissioner in proceedings,

dated 10-12-1969 and on the death of the petitioner's father, the 2nd respondent recognized the petitioner to be the hereditary trustee, who was

administered oath of secrecy by the Inspector, Endowments on 10-02-1995. After intervention of the abolition of hereditary rights and recognition

of the hereditary trustee to be deemed as a founder trustee, the petitioner submitted an application for nominating him as the Chairman of the trust

board in tune with Section 20(1)(b) of A.P. Charitable and Hindu Religious institutions & Endowments Act, 1987, A.P. Act 30 of 1987(for short

the Act"). A legal notice was also issued to the Commissioner of Endowments on 05-01-2012. But the 2nd respondent, who appointed seven

persons as trustees earlier by proceedings, dated 31-01-2007, after obtaining his opinion in consonance with Section 17(1) of A.P. Act 30 of

1987, did not renew the trusteeship of the said persons after expiry of the period of office of two years in spite of the recommendation of a local

Legislator. While so, the 1st respondent in his notice, dated 16-12-2011 desired applications from interested persons as per Section 17(3) of the

Act and fulfilling the requirements specified to enable appointment of a new trust board within 20 days. The petitioner is aggrieved by the said

notification alleging the same to be not in tune with Section 17(1) of the Act. As a founder trustee, he must be consulted and his opinion must be

sought on all aspects pertaining to the appointment of trustees to the temple board. The petitioner, therefore, desired the absence of seeking

petitioner's consent to be recognized as leading to vitiation of the impugned notification and also sought for an interim suspension of the notification

before it is so declared.

2. The implead petitioner in his affidavits claimed to have made an application for trusteeship on 30-12-2011 to the 1st respondent in pursuance of

the impugned notification, which was stalled due to the interim directions of this Court. In his elaborate submissions, the implead petitioner

ultimately stated that the petitioner is no more the founder trustee of the temple and obtaining his prior opinion or having prior consultation with him

cannot be considered required by Section 17(1) read with Section 20 of A.P. Act 30 of 1987, as the petitioner did not approach the Endowments

Tribunal after incorporation of the amendments by A.P. Act 27 of 2002. The petitioner has no cause of action according to the implead petitioner.

3. The petitioner filed some more documents, one of which is an application submitted by the petitioner in Form-II to the Commissioner,

Endowments requesting for nomination as Chairman to the board of trustees, as he must be deemed to be the founder trustee of the temple. The

learned counsel for the petitioner also appeared to have issued a legal notice to the same effect to the Commissioner of Endowments on 05-01-

2012 and the petitioner also filed a detailed counter-affidavit in the implead petition.

4. Sri B. Mayur Reddy, learned counsel placed reliance on Pannalal Bansilal Patil and others etc. Vs. State of Andhra Pradesh and another, to

emphasise the manner in which appointment of board of trustees has to be made and the Apex Court after tracing the history of the legislative

changes governing the subject and examining the constitutional scheme vis-a-vis religion, observed that the right to establish a religious institution or

endowment is a part of religious belief or faith, but its administration is a separate part which would be regulated by law appropriately made by the

legislature. The Apex Court further clarified that in case a board of trustees is constituted, the right to preside over the board given to the founder

or any member of his family would generate feelings to actively participate, not only as a representative of the source, but the same would also

generate greater influence in proper and efficient management of the charitable or religious institution or endowment. The provisions of Sections 17

and 29(5) of the Act were examined with reference to the legislative intent and validity and it was concluded that they cannot be faulted.

5. In *Moti Das Vs. S.P. Sahi, The Special Officer In Charge of Hindu Religious Trusts and Others*, in dealing with Bihar legislation on Hindu

religious trusts, the Apex Court found the provisions of the Act to be seeking to implement the purpose for which the trust was created and prevent

mismanagement and waste by the trustee. While upholding reasonable restrictions imposed by the legislation in this regard, the Apex Court also

observed that the power to give directions to a trustee must be for proper administration of the trust in accordance with law governing such trust

and the wishes of the founder in so far as such wishes can be ascertained and are not repugnant to such law.

6. The principles laid down in the two precedents cited thus do not appear to be of any application to the facts in issue in the present writ petition.

Assuming that all the allegations of the petitioner about his entitlement to the status of a founder trustee with reference to the institution in question

are true, the relief sought for to interfere with the notification calling for applications for appointment of trustees issued by the competent authority,

due to absence of prior consultation or consent of the petitioner, does not appear, on the plain and unambiguous language of Section 17 of the Act,

to be a statutory prerequisite, which can be enforced against the notification issuing authority. What all Section 17(1) of the Act states about the

wishes of the founder is that the authority concerned shall have due regard to such wishes of the founder while making appointment of trustees u/s

15, which indicates the stage at which such wishes deserve consideration to be the stage of considering such appointment of trustees, but not

before any such consideration can arise. No such consideration can arise in the absence of the authority receiving applications for the purpose in

pursuance of the notification issued and the precedents cited recognizing the pivotal role of the founder trustee in the administration of the institution

governed by the Statute, do not appear to go to the extent of requiring his intervention even where ascertainment of his wishes may not have any

relevance like the present stage of calling for applications from interested and qualified persons in pursuance of the notification issued. The right of

the petitioner to be appointed as Chairman of any trust board is not dependent upon the issuance or absence of any such notification and there is

no reason to apprehend that the authorities concerned will act to the detriment of any such rights of the petitioner, if he has such rights. While the

respondents should, therefore, act in strict compliance of the provisions of A.P. Act 30 of 1987 and the rules made thereunder in so far as

respecting the rights and interests of the petitioner as a founder trustee, if his status as such a founder trustee is not in dispute, this writ petition

cannot succeed in so far as intervention with the notification is concerned. Accordingly, the writ petition is dismissed. No costs.