NC: 2023:KHC:23667
WP No. 3090 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 3090 OF 2023 (GM-R/C)

BETWEEN:

SRI. N. SRIDHAR ACHAR,
S/O. SRI. VASUDEVA ACHAR,
AGED ABOUT 59 YEARS,
OCCUPATION: HEAD CLERK,
SHREE DURGA PARAMESHWARI TEMPLE,
SHREE KSHETHRA SHARAVOORU,
AALANKARU VILLAGE,
KADABA TALUK,
DAKSHINA KANNADA DISTRICT-574 285.

AND ALSO PRESENTLY
R/AT 'NAGARI HOUSE',
AALANKARU VILLAGE,
KADABA TALUK,
DAKSHINA KANNADA DISTRICT-574 285.

...PETITIONER

(BY SRI. NAGENDRA KUMAR K., ADVOCATE)

Digitally signed by SHARADA VANI B
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA,
   DEPARTMENT OF HINDU RELIGIOUS INSTITUTIONS
   AND CHARITABLE ENDOWMENTS,
   VIKASA SOUDHA,
   DR. B. R. AMBEDKAR VEEDHI,
   BENGALURU-560 001
   REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE DEPUTY COMMISSIONER,
DEPARTMENT OF HINDU RELIGIOUS INSTITUTIONS
AND CHARITABLE ENDOWMENTS,
DAKSHINA KANNADA DISTRICT,
MANGALURU-575 001.

3. THE MANAGING COMMITTEE OF
SHREE DURGA PARAMESHWARI TEMPLE,
SHREE KSHETHRA SHARAVOORU,
AALANKARU VILLAGE,
KADABA TALUK,
DAKSHINA KANNADA DISTRICT-574 285
REPRESENTED BY ITS ADMINISTRATOR.
(UNDER STATE GOVERNMENT)
(DEPARTMENT OF DHRI&CE)

4. SRI. M. KAMALAKSHA RAI,
S/O. LATE SANJEEVA RAI,
AGE: MAJOR,
THE PRESIDENT OF MANAGING COMMITTEE,
SHREE DURGA PARAMESHWARI TEMPLE,
SHREE KSHETHRA SHARAVOORU,
AALANKARU VILLAGE,
KADABA TALUK,
DAKSHINA KANNADA DISTRICT-574 285.

AND ALSO PRESENTLY
R/AT PARARI GUTTU HOUSE,
PERABLE VILLAGE,
PERABLE POST, KADABA TALUK,
DAKSHINA KANNADA DISTRICT-574 285.

5. SMT. POORNIMA RAI,
HUSBAND NAME HAS NOT KNOWN,
AGED: MAJOR,
OCCUPATION: ADVOCATE,
ENQUIRY OFFICER,
APPOINTED BY THE PRESIDENT,
MANAGING COMMITTEE OF
SHREE DURGA PARAMESHWARI TEMPLE,
SHREE KSHETHRA SHARAVOORU,
OFFICE AT NO. 208,
2ND FLOOR, BHARATH BUILDING,

PANJE MANGESH RAO ROAD,
MANGALORE-575 001.

6. THE COMMISSIONER,
DEPARTMENT OF HINDU RELIGIOUS
CHARITABLE ENDOWMENTS,
MAHADESHWARA VARTHA BHAVAN,
VENKAT RAO ROAD, CHAMARAJPET,
BENGALURU-560 018.

…RESPONDENTS

(BY SMT. RASHMI PATEL, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 20.06.2019 PASSED BY THE 4th RESPONDENT AS PRESIDENT OF THE MANAGING COMMITTEE OF SRI DURGA PARAMESHWARI TEMPLE, SARAVOORU, AS PER ANNEXURE-Z DISMISSING THE PETITIONER FROM THE POST OF HEAD CLERK IN THE SAID TEMPLE AND CONSEQUENTLY ALLOW THE APPEAL NO.ADM/7/AP-09/2019-20 FILED BY THE PETITIONER BEFORE THE 6TH RESPONDENT, BY QUASHING THE IMPUGNED ORDER DTD 02.09.2022 IN CASE NO. ADM-7/AP-9/2019-20, PASSED BY THE 6TH RESPONDENT AS PER ANNEXURE-AB.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner-temple servant is complaining in writ jurisdiction about the orders terminating him from service. Learned counsel for the petitioner vehemently argues that his client had no reasonable opportunity in the subject enquiry since he was admitted to the hospital during the period 7.5.2019 & 31.5.2019; enquiry proceedings were

accomplished on 29.5.2019; despite knowing all this, the enquiry was conducted in absentia by respondent No.3 in a war time haste; in maters like this, that is not desirable. He also points out his appeal having been rejected by the Appellate Authority vide order dated 2.9.2022. This also he finds fault with. So arguing, he seeks invalidation of the impugned orders.

2. Learned HCGP appearing for the official respondents opposes the petition contending that in matters like this, a thorough enquiry having been held, the impugned termination order was issued on 20.6.2019 and the same was put in challenge by the petitioner in appeal and the appeal also came to be rejected after giving full opportunity to the petitioner. The principles of natural justice which the petitioner is arguing cannot be chanted like mantra without demonstrating the prejudice occasioned by so called non-compliance. So contending, she seeks dismissal of the Writ Petition.

3. Having heard the learned counsel for the parties and having perused the Petition Papers, this court is inclined to grant indulgence in the matter as under and for the following reasons:

(a) Petitioner was working as a temple servant since last more than two & half decades, is not in dispute. The allegations of misappropriation of temple funds/property were held to be proved in the enquiry in which the petitioner could not participate because of his hospitalization during the period mentioned above. The principles of natural justice are held to be sacrosanct and the Apex Court in a catena of decisions has observed that even Article 14 of the Constitution is founded on said principles. The violation of principles of natural justice in all civilized jurisdiction is generally treated as a ground for invalidation of the orders. Hence, there is no reason for this court to take a different view in the matter.

(b) The vehement contention of learned HCGP that prejudice has not been shown and therefore, principles of natural justice cannot be invoked, is too farfetched an argument. There are Apex Court decisions which hold that the very denial of principles of natural justice is a prejudice and that no independent prejudice need be demonstrated vide *S.L.KAPOOR vs. JAGANNATH* (1980) 4 SCC 379 wherein at Paragraph 24, it is observed:

> *"…In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary…"*

Of course there are many exceptions to this rule, is also true; however, case of the petitioner does not fit into any of them. Even God is said to have given an opportunity of hearing to Adam & Eve before punishing them for eating the proscribed fruit in the Eden garden, the Biblic literature says. That being the position, there is no reason for the official respondents who are mortals to have hastily

terminated the services of the petitioner. Such faultsome termination operates as a stigma in our social set up when a temple servant is branded that way.

In view of the above, this Writ Petition succeeds; a Writ of Certiorari issues quashing the impugned orders; matter is remitted back to respondent No.3 for consideration afresh after giving an opportunity of hearing to the petitioner, who shall be reinstated in service, forthwith subject to the outcome of the remand.

All contentions are kept open.

Costs made easy.

Sd/-
JUDGE

CBC
List No.: 1 Sl No.: 29