

CASE NO.:
Appeal (civil) 1652 of 1999

PETITIONER:
Rishikul Brahmacharya Ashram Committee & Another

RESPONDENT:
State of Uttranchal & Ors.

DATE OF JUDGMENT: 19/11/2004

BENCH:
Shivaraj V. Patil & B.N. Srikrishna

JUDGMENT:
J U D G M E N T

SRIKRISHNA, J.

This appeal is directed against the judgment of the High Court dismissing writ petition of the appellant which had sought the quashing of order No. 1132/sec-9/Five 477/76 Lucknow dated 22.2.1981 and order No.1486-Sec-9/V-477/76 Lucknow dated 6.3.1981 made by the State Government whereby the State Government had ordered that the property belonging to the appellant had vested in a Treasurer of Charitable Endowments, U.P.

The appellant was established and registered under the Societies Registration Act on 27.8.1907. The memorandum of appellant's society, inter alia, includes revival of the study of ancient Sanskrit language as laid down in the Hindu scriptures, imparting of such knowledge along with suitable knowledge of English to students, establishing and maintaining institution for education on old lines as far as practicable for all Hindu boys, establishing and maintaining special classes of education for the sons of Purohits at places of pilgrimage so as to enable them in their after life to satisfactorily perform all the duties devolving upon them. In addition to these religious and educational activities, the appellant was also running a Sanskrit Pathshala, Ayurveda Mahavidyalaya, Karmkand Mahavidyalaya, Jyotish Mahavidyalaya and Upadesh Mahavidyalaya. The appellant was receiving Government grant from the education department of the State Government and the Central Government. These grants were stopped sometimes in 1969. Complaints were received by the State Government that the property of the appellant was being wasted and maladministered by the persons in charge of the appellant's administration. On 26th December, 1978 a show cause notice was issued by the State Government to the appellant to show cause as to why the properties belonging to society be not vested in the Treasurer under Sections 3 and 4 of the Charitable Endowment Act, as applicable to the State of U.P. (Presently the State of Uttaranchal). The appellant gave a reply which was not considered satisfactory by the State Government. Another notice dated 22.2.1981 was issued to the appellant and the appellant was informed that the State Government had decided to take action under sections 3 and 4 of the U P Act XX of 1950. The appellant disputed the factual allegations and contended that the Charitable Endowment Act 1890 did not apply to it as it was an institution established exclusively for religious teaching or worship. The State Government did not accept this contention and passed an order dated 6.3.81 by which the properties of the appellant were ordered to be vested in the treasurer of Charitable Endowment. The appellant challenged the validity of the notice issued to it and the

final orders made thereupon. The only ground pressed before the High Court was that the impugned order of the State Government was not a speaking order as no reasons had been recorded for passing the order. The learned Additional Advocate General who appeared for the State Government sought leave of the High Court for filing a supplementary affidavit for placing all the relevant material before the Court in order to meet the contention of the appellant that there was non application of mind to the material facts. Such leave was granted by the High Court and a detailed counter affidavit was filed and all the material records produced before the High Court.

Relying on the judgment of this Court in *Union of India v. E.G. Nambudiri*, AIR 1991 SC 1216, and the observations made therein, the High Court held that if the impugned order did not contain any reasons, it was open to the competent authority to place all the connected materials and the reasons for the order by adducing evidence before the Court to justify the administrative action. The High Court considered the supplementary affidavit filed on behalf of the State and noticed that serious complaints had been made against the appellants including one by an MLA. The copy of the audit report placed on record mentioned various financial irregularities committed by the appellants. There were suits filed in 1968 and 1971 alleging mismanagement in the affairs of the appellants Ashram. The manner in which the schools were conducted, and the manner in which there were financial irregularities committed with respect to several of the schools, which had become defunct, left no doubt in the mind of the High Court that the circumstances alleged in the show cause notice were fully made out. The High Court, therefore, accepted the contention of the State Government that the property of the appellant was being mis-managed and that the State Government was justified in passing the order under section 4 of the UP Act 20 of 1950 vesting the properties of the appellants in the Treasurer. In this view of the matter, the High Court dismissed the petition.

The only contention urged before us by the learned counsel for the appellant is that the appellant is an institution established for a purpose which relates exclusively to religious teachings or worship, and, therefore, the provisions of Charitable Endowment Act of 1890 or its extension by U.P. Act 20 of 1950 did not apply to them.

The respondents have filed a counter affidavit before this Court in which, apart from indicating the details of mis-management of the property, it is pointed out that the appellant Ashram had obtained financial grants for setting up five institutions, namely :

1. Sanskrit Pathshala,
2. Ayurveda Mahavidyalaya,
3. Karmkand Mahavidyalaya,
4. Jyotis Mahavidyalaya and
5. Upadesh Mahavidyalaya.

But, the last two were not established and the 1st and 3rd had been closed before 1969. It was only the Ayurveda Mahavidyalaya which was functioning, though subject to mis-management as alleged. Considering the functions carried out by its Ayurvedic Mahavidyalaya, the State Government rejected the contention that the appellant was established for a purpose which was purely religious and, therefore, did not fall within the ambit of the concerned Act.

Learned counsel for the appellant tried to justify the contention by reference to the declaration made in the Memorandum of Association. We are not impressed. Whether a given society is established for, and is carrying out, a purpose purely religious, or whether it is established also for purposes other than religious, is a question of fact. This issue has been considered on the basis of the evidence tendered before the appropriate authorities under the Act

after suitable opportunity was given to the appellant to meet the adverse allegations against it. After such inquiry, the administrative authority has recorded a finding of fact that the appellant was amenable to the jurisdiction under the concerned Act. The High Court was justified in declining to interfere with such a finding. In our view, therefore, no fault can be found with the impugned judgment of the High Court.

In the result, we see no substance in this appeal, which deserves to be dismissed. The appeal is accordingly dismissed, but with no order as to costs.

JUDIS