



WEB COPY

W.P.No.18185 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18185 of 2024
and WMP.No.19972 of 2024

Mayurapuram Guru Pamban Sreematt
Kumaraguru Dasa Annadhana Sabhai,
Rep. By its President D. Saravanan
having registered office at
No.8, 5th Street, Lakshmipuram,
Thiruvanmiyur, Chennai 600 041.

Presently having office at No.122/49
Anna Street, Thiruvanmiyur,
Chennai 600 041.
...Petitioner

versus

1. The Commissioner
HR & CE Department
Chennai 600 034.
2. The Joint Commissioner,
HR & CE Department,
Chennai 600 004.
3. The Deputy Commissioner
HR & CE Department,
Chennai 600 034.



WEB COPY

4. The Assistant Commissioner,
HR & CE Department/Fit Person
Sri Mayurantha Swami Temple,
Sri Mayurapuram, Thiruvanmiyur,
Chennai 600 041.

5. The Executive Officer,
Sri Pamban Kumara Gurudas Swamigal Temple,
Thiruvanmiyur,
Chennai 600 041.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to afford opportunity to the petitioner to participate in the enquiry proceedings in Na.Ka.No.1709/2024/E1 dated 28.05.2024 to find out the Sabha which is in existence and their genuinity of the claim to carry the legacy of the Srimath Kumara Gurudasa Swamigal to perform the functions or poojas as per the direction given by this Court in common judgment passed in W.A.No.2191 of 2018 dated 27.03.2024 within a stipulated time frame as fixed by this Court.

For Petitioner : Mr.C.Umashankar
Senior Counsel for
Mr.K.Venkateswaran

For Respondents : Mr.Shunmugasundaram
Senior Counsel for
Mr.N.R.R.Arun Natarajan
Spl. Government Pleader for R1 to R4



WEB COPY

W.P.No.18185 of



Mr.A.R.Karthik Lakshman
for Mr.L.Palanimuthu for R5

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Mandamus directing the second respondent to afford opportunity to the petitioner to participate in the enquiry proceedings in Na.Ka.No.1709/2024/E1 dated 28.05.2024, to find out the Sabha which is in existence and the genuineness of the claim to carry the legacy of the Srimath Kumara Gurudasa Swamigal to perform functions or poojas as per the direction given by this Court in common judgment passed in W.A.No.2191 of 2018 dated 27.03.2024 within a stipulated time frame as fixed by this Court.

2. It is the case of the petitioner that Sabha namely Mayurapuram Guru Pamban Sreematt Kumaraguru Dasa Annadhana Sabhai came into existence as early in the year 1999 and the same was registered under the Tamil Nadu Societies Act vide Registration No.540 of 1999. The said Sabha was formed for the purpose of carrying on Annadhanam at Sreemath Pamban Kumara Gurudasar Swamigal Samathi at Thiruvannamiyur. The object of the Sabha is to provide free food service in the name of the Pamban



Swamigal and to protect and promote the faith and thoughts of the Pamban Swamigal. The Sabha had been rendering the aforesaid service continuously without any break even several years before the date of registration of the Sabha. Sabha had also established a library near Chinna Swamy Jothidar Samathi and in the said library, poems, books, scripts and calendar of the Swamiji were circulated to the devotees. The library is maintained for the usage of the devotees. During Sundays and function days, the Samathi is cleaned and maintained neatly for the worship of devotees. The Sabha is still in existence and the objects of the Sabha was meted out by preparing food for Annadhanam, inside the premises of the Pamban Kumara Gurudasar Swamigal Samathi. The aforesaid services are rendered with the knowledge of the respondents. Fee receipts are issued to the Sabha in this regard. Sabha had played a prominent role whenever functions are conducted in the said Samathi. They have also obtained necessary permission from police, fire service whenever they conduct the functions in the said Samathi.

3. The Sabha is one of the devotees of Srimath Kumara Gurudasa Swamigal (hereinafter referred to as 'Swamigal') and the Swamigal was an inspired baktha to Lord Muruga and had contributed the celebrated



WEB COPY

'Shanmugha Kavasam', 'Panchamirtha Vannam', 'Kumarasthavam' and also had composed more than 6,666 compositions. According to the petitioner, the Swamigal was a legend, saint and gnani during his lifetime with a lot of followers and devotees including the most popular and prominent Tamil scholar like Thiru.Vi.Ka and Dr.Gurusamy Mudaliar and others. It is further averred that before attaining Jeevan Mukthi, Swamigal left his last will and testament in the year 1926 and codicil in the year 1927 which were probated on the original side of this Court in O.P.No.187 of 1933. Under the terms of the said Will, Swamigal had appointed a Sabha called 'Mahathejo Mandalam' with 21 members constituting mostly his disciples, bakthas or worshippers of Lord Subramanian and they have to perform 'Mayura Vahana Sevanam' festival and other pooja rituals. The mortal remains of the Swamigal were duly preserved in a Samadhi on 20.05.1929 and after he attained Samadhi and the land in which Swamigal was enshrined in an extent of 2 Kanis and 4 grounds bearing pymash No.967 at Thiruvannamiyur village, was purchased in the name of the Secretary, Mahathejo Mandala Sabha on 04.06.1929. Since 1929 onwards, daily poojas, Mahasivarathri, Kandar Sasthi Mayura Vahana Sevanam and all the other religious festivals are performed by the Mahathejo Mandala Sabha, in accordance with the last



wishes of Swamigal. In the year 1951 another Samadhi was raised adjacent to the Samadhi of Swamigal of one Chinnasami Jothidar, who was an intimate and important disciple of Swamigal and the Sabha has been performing its functions near the Chinnasami Jothidar Samathi. They have also established library near the Chinnasami Jothidar Samathi and propagating the philosophy and following the religious practices expressed by the Swamigal.

4. Further, it is averred that from 1929 to 1971, poojas and the festivals were conducted by the Sabha and at one point of time, a notice came to be issued by the HR & CE Department, dated 05.11.1971. In the said notice, it was stated that the Department was going to take possession of Sri Pamban Kumara Gurudasar Swamigal Samadhi Koil at Thiruvanmiyur and its property over which the Samathi or tomb which is situated. The said notice was challenged by Pamban Kumara Gurudasar Samadhi Koil represented by its President, T.T.Kuppusamy Chettiar in W.P.No.3501 of 1971. This Court was pleased to allow the said writ petition, vide order dated 04.09.1973 and thereby quashed the notice issued by the HR & CE Department and thereafter, the Sabha had continued the



WEB COPY

administration. Over a period of time, the President of the said Sabha had found that some of the members of the said Sabha had started playing foul games and they have not conducted festival or pooja in the manner as it was done earlier and their intention is only to swindle the property of the Swamiji. Thereafter, the President of the Sabha had written a letter to the HR & CE Department on 09.08.1984 to initiate proceedings for the settlement of a scheme for the better administration of the institution and agreed for the appointment of a Fit Person pending settlement of the scheme. In pursuance to the said letter, the HR & CE Department had appointed a fit person vide proceedings dated 29.08.1984 and the fit person had also taken charge on 09.09.1984. Thereafter, one of the strong devotee of Swamiji had filed writ petition in W.P.No.6157 of 1991 seeking a prayer of a writ of Mandamus directing the Commissioner and Deputy Commissioner of HR & CE to entrust the performance of all the religious and spiritual rituals of Sri Pamban Kumara Gurudasar Swamigal Samadhi at Thiruvannamiyur to the Maha Thejo Mandala Sabha and the said writ petition was allowed vide order dated 20.06.1991.



WEB COPY

5. So far as the administration of the aforesaid Samathi is concerned, various litigations came to be filed by the HR & CE Department as well as the other Sabhas. The proceedings came to be concluded in a common judgment passed in W.A.Nos.2191 of 2018, 2316 of 2018, 2390 of 2018, CMP.No.9847 of 2019 in W.A.Sr.No.48132 of 2019 and W.P.No.13141 of 2019, wherein this Court was pleased to observe that the two aspects of the Hon'ble Supreme Court order has to be complied with. The first one is the order passed by the trial Court and confirmed by this Court. Secondly, the liberty given to the HR & CE Department to invoke Section 3 has to be explored. Insofar as the administration of the temple, the Apex Court had confirmed the judgment and decree of the Courts below. The Division Bench of this Court had directed the HR & CE Department to find out as to the Sabha which is in existence and following the legacies of Swamiji.

6. The fact being as such, without deciding the aforesaid issue as directed by this Court, the respondents, on 30.05.2024, had indulged in illegal and unlawful act and thrown away the belongings of the Sabha, which were being used for the preparation of food for annadanam on 30.05.2024 without issuing any notice, as contemplated in the judgment of



this Court. The same is a flagrant violation committed by the respondents. In this regard, the petitioner Sabha had also given a complaint to the Inspector of Police, J6 Police Station, on 06.06.2024. When there is a specific direction by this Court as to whom the administration has to be handed over, the respondents had indulged in wanton and deliberate violation of the judgment of this Court. The 2nd respondent had issued a notice to some of the Sabhas, except to petitioner's Sabha, knowing fully well that this Court had mentioned about the existence of the petitioner Sabha in the judgment passed in the above Writ Appeals and the second respondent had wantonly and deliberately failed to issue notice to the petitioner Sabha. Further, the said notice does not pertain to decide the handing over of charge of the Matt to the Sabha which is rendering service and following the preachings of Swamiji. On the contrary, the same came to be issued to find out the Sabha who is eligible for participating in the Mayura Vagana Sabha which is to be held in the month of December, 2024.

7. It was agitated by various group of devotees forming themselves as societies to perform Mayura Vahana Sevana festival and other religious activities. Therefore, it was their contention that the said society, i.e.,



Regn.No.15/1988 cannot claim any exclusive right over the administration of the temple, samadhi or koil. There had been two more societies registered in the year 1997 and 1999 in the name of Maha Thejo Mandala Sabha with Regn.No.466/1997 represented by one Yuvaraj and Maha Thejo Mandala Guruppeedam Srimath Kumara Gurudasar Swamigal Annadhana Sabha with Regn.No.540/1999.

8. There had been lot of inner rivalries among the individuals who claimed to be members of any of these association or sabha or mandalam and therefore, the legacy of the Maha Thejo Mandala Sabha formed by way of a committee by the Swamiji in the year 1926 has not been followed by any of these sabhas or mandalams or the society.

9. The learned counsel appearing for the petitioner submitted that at least one or two of these four Sabhas had come out with petitions or appeals seeking the prayer that the temple and samadhi to be continuously administered by the HR & CE Department and it should not be given to any individuals or group of individuals, either in the name of the society or in the name of Maha Thejo Mandala Sabha or Maha Thejo Mandalam.



Resultantly, the following orders are passed in this batch of cases passed by this Court and the same is extracted below:-

(i) That there shall be a direction to the HR & CE Department to take necessary steps to find out the real person or group of persons who made these claim by at least four such registered societies in the name of Maha Thejo Mandala Sabha or Maha Thejo Mandalam and in this regard, notices can be given to those who all make such claim and their genuinity of the claim to carry the legacy of the Swamiji to perform the functions or poojas, mainly the Mayura Vahana Seva should be first identified. Thereafter such right or privilege should be entrusted to those genuine people who really carry the legacy of Swamiji.

(ii) Till such time, the poojas and festivals can be performed by the HR & CE where all these claimants can be permitted to participate. Since the Hon'ble Supreme Court had already given a liberty to invoke Section 3 of the HR & CE Act that exercise also shall be undertaken immediately by the HR & CE Department.

10. Hence the petitioner Saba should be called for an inquiry and they should be permitted to submit all the materials and records available to prove that they are the true followers of Swamigal, who have continued to carry on the practice of worship, as taught by the Swamigal.



WEB COPY

11. The learned Senior Counsel appearing for the HR & CE Department would submit that the petitioners have not produced even a scrap of paper to prove that they are the true followers of Swamigal.

12. Mr.N.R.R.Arun Natrajan, learned Special Government Pleader, appearing for the Department submitted that steps would be taken to implement the directions given by this Court in common judgment passed in W.A.No.2191 of 2018 dated 27.03.2024. He further submitted that three persons namely Siva, Velu and Murugesan had tried to interfere with the preparation for the conduct of Kumbabishekam and initial Boomi Pooja and a complaint had been made before the Inspector of Police, Adayar, Thiruvanmiyur and the Inspector of Police, Adayar had also issued CSR No.390/2024. It is stated that the police are proceeding further in the manner known to law.

13. The learned counsel for the petitioner submitted that they have given a representation to the department raising objection to the conduct of Kumbabishegam in a Samathi. However, no papers are placed before this



WEB COPY

Court to show that they have approached the said authorities in the manner known to law, with the said request. If any such representation is pending before the authorities or with new representative the petitioner is permitted to approach the authorities within a period of two weeks from the date of receipt of a copy of this order, and the authorities shall consider the same and pass orders after the completion of Kumbabishegam. It is made clear that the members belonging to the petitioner Saba shall not indulge in such illegal activities or try to disturb the said Kumbabishekam. They should participate the function only as a devotee. It is also made clear that persons having claim in the petitioner Saba cannot claim right over the performance of the Pooja and cannot be permitted to take first respect in any manner. All the persons will be only ordinary devotee and no first respect will be given to them.

14. HR & CE Department is permitted to conduct the Kumbabishekam as per schedule and necessary police protection can be sought from the concern police department. HR & CE Department shall conduct enquiry on 24.07.2024 and the same shall be completed within six months i.e., on or before 31.01.2025.



WEB COPY

15. With the above observation and directions, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

04.07.2024

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
dpq



WEB COPY

W.P.No.18185 of 2024



V.BHAVANI SUBBAROYAN, J.

dpq

W.P.No.18185 of 2024

04.07.2024