



WEB COPY



W.P(MD)No.7886 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|              |            |
|--------------|------------|
| Reserved on  | 24.06.2024 |
| Delivered on | 02.09.2024 |

CORAM

**THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.P.(MD) No.7886 of 2020**  
and  
**W.M.P.(MD) Nos.25517 & 3596 of 2020**

Arulmigu Vennimadanthaiyan Sastha Kovil,  
Rep.by its Trustee S.Azhaguvel

... Petitioner

vs.

1. The Commissioner/Principal Secretary,  
Hindu Religious and Charitable  
Endowments Department,  
Chennai 600 034.
- 2.The Joint Commissioner (Head Quarters),  
Office of the Commissioner/Principal Secretary,  
Hindu Religious and Charitable  
Endowments Department,  
Chennai 600 034.
3. The Joint Commissioner (Head Quarters),  
Hindu Religious and Charitable  
Endowments Department,  
Tirunelveli.
4. The Assistant Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Thoothukudi.
5. ~~5. The Assistant Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Thoothukudi.~~



W.P(MD)No.7886 of 2020

6. S.Ganesan

7.The Fit Person,  
Arulmigu Vennimadanthaiyan Sastha Kovil,  
Chettiyapathu, Thiruchendur Taluk,  
Thoothukudi District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned orders passed by the 4<sup>th</sup> respondent in Se.Mu.Na.Ka.No.769/2018/Aa1 dated 02.07.2020 and in Na.ka.No.769/2018-2/Aa1 dated 08.06.2020 and the impugned order passed by the 2<sup>nd</sup> respondent in Ni.Mu.No.4068/2018/E2 dated 05.06.2020 and quash the same.

For Petitioner : Mr.Meenalakshmi Sundaram  
Senior Counsel  
for Mr.M.Saravanan

For R1 to R5 : Mr.P.Subbaraj  
Special Govt.Pleader

For R5 : Mr.H.Arumugam

For R6 : Mr.K.Gokul

For R7 : Mr.M.Muthugeethian

### **ORDER**

By three separate orders, connected writ petitions in W.P(MD)No.25517 of 2019, W.P(MD)No.3596 of 2020 and W.P(MD)No.31333 of 2023 were closed.



W.P(MD)No.7886 of 2020

2. In the present writ petition, the petitioner has challenged the impugned order dated 05.06.2020 passed by the 2<sup>nd</sup> respondent Joint Commissioner under Section 23 of the Hindu Religious and Charitable Endowments Act, 1959, the consequential Show Cause Notice dated 08.06.2020 issued by the 4<sup>th</sup> respondent, Assistant Commissioner calling upon the petitioner to show cause as to why a fit person should not be appointed, and the Impugned Order dated 02.07.2020 of the Assistant Commissioner appointing the 7<sup>th</sup> respondent as a fit person of the Temple viz., Arulmigu Vennimadanthaiyan Sastha Kovil.

3. The dispute in all these writ petitions emanate from a complaint of the 6<sup>th</sup> respondent herein, namely S.Ganesan with the official respondents herein and the District Collector on 13.03.2018.

4. Thereafter, the 6<sup>th</sup> respondent had also filed W.P(MD)No.7310 of 2018 to direct the respondents therein, namely the Commissioner of Hindu Religious and Charitable Endowments Department, District Collector, the Joint Commissioner of Hindu Religious and Charitable Endowments Department and the Assistant Commissioner of Hindu Religious and Charitable Endowments Department to consider the representation of the 6<sup>th</sup> respondent, dated

<https://www.mhc.tn.gov.in/judis>  
13.03.2018.



W.P(MD)No.7886 of 2020

WEB COPY

5. By an order, dated 19.04.2018, W.P(MD)No.7310 of 2018 was closed after recording the submission of the 6<sup>th</sup> respondent herein (the petitioner therein) that 5<sup>th</sup> respondent therein, the deponent, namely Alaguvel as well as the 6<sup>th</sup> respondent herein (the petitioner therein) were being enquired by the officials of the 4<sup>th</sup> respondent, Assistant Commissioner, Hindu Religious and Charitable Endowments Department.

6. Pursuant to the enquiry by the 4<sup>th</sup> respondent herein, the Assistant Commissioner, Hindu Religious and Charitable Endowments Department. reports dated 20.08.2018, 23.07.2019 and 10.03.2020 were submitted with the 1<sup>st</sup> respondent Commissioner. Based on the aforesaid reports, the 2<sup>nd</sup> respondent, Joint Commissioner has issued the impugned order, dated 05.06.2020, wherein it has been stated as follows:

“பார்வையில் காணும் குறிப்புகளில் வரப்பெற்ற உதவி ஆணையரின் முன்மொழிவு பரிசீலனை செய்யப்பட்டது.

தூத்துக்குடி மாவட்டம், திருச்செந்தூர் வட்டம், செட்டியாபத்து கிராமம் அருள்மிகு வென்னிமடந்தையன் சாஸ்தா திருக்கோயிலை அதன் நிர்வாக நலன் கருதியும், தூத்துக்குடி உதவி ஆணையரின் பரிந்துரையை ஏற்றும், இத்துறையின் கீழ் கொண்டு வந்து, சிறிய திருக்கோயில் பட்டியல், பதிவேடு பக்க எண், 406, வரிசை எண்.4ல் பதியப்பட்டுள்ளது என்ற விவரம் தெரிவித்துக் கொள்ளப்படுகிறது.

3. இத்திருக்கோயிலுக்கு சட்டவிதிகளின்படி



W.P(MD)No.7886 of 2020

அறங்காவலர் குழு ஏற்படுத்தப்படும் வரையில் அவசர அவசியம் கருதி திருக்கோயில் நிர்வாகத்தை கவனிக்கும் பொருட்டு, இடைக்கால ஏற்பாடாக உடனடியாக தக்கார் நியமனம் செய்ய உரிய நடவடிக்கை எடுக்கவும், இத்திருக்கோயிலின் வருவாயினை கண்காணித்து, உதவித்தொகை நிர்ணய அறிக்கையினை பரிசீலித்து கேட்பு வழங்கும் வகையில் உரிய படிவத்தில் அறிக்கை அனுப்பவும், தூத்துக்குடி உதவி ஆணையரைக் கேட்டுக் கொள்ளப்படுகிறது.

4. இத்திருக்கோயிலுக்கு ITMS Code பெற உரிய நடவடிக்கையினை மேற்கொள்ளவும் உதவி ஆணையருக்கு அறிவுறுத்தப்படுகிறது.”

7. Vide the Impugned Order dated 05.06.2020, the 2<sup>nd</sup> respondent, Joint Commissioner had brought the subject temple under the department's control based on the Assistant Commissioner's recommendation, and further instructed the Assistant Commissioner to appoint a temporary trustee (Thakkar), until a board of trustees is formed as per law, to manage the affairs of the temple and further instructed the Assistant Commissioner to monitor the temple's revenue and submit a report regarding grants, and take necessary steps to obtain an ITMS Code for the temple.

8. The challenge to the impugned order of the 2<sup>nd</sup> respondent, Joint Commissioner is that Section 23 of the Hindu Religious and Charitable Endowments Act, 1959 has been violated as the order has been passed by the 1<sup>st</sup> respondent Commissioner without a reasonable opportunity of making



W.P(MD)No.7886 of 2020

9. Although facts on record reveal that the 6<sup>th</sup> respondent herein has filed W.P(MD)No.7310 of 2018 and it was closed on 19.04.2018 after recording the submission of the 6<sup>th</sup> respondent herein (the petitioner therein) that 5<sup>th</sup> respondent therein, the deponent, namely Alaguvel who was impleaded on 19.04.2018 as well as the 6<sup>th</sup> respondent herein (the petitioner therein) were being enquired by the officials of the 4<sup>th</sup> respondent, Assistant Commissioner, it is noticed that no notice was issued to the deponent herein, 5<sup>th</sup> respondent therein before impleading. The report of the Assistant Commissioner dated 20.08.2018 bearing reference Na.Ka.No.769/2018/Aa1 is a detailed report. It reads as under:

“மேற்படி திருக்கோயில் தொடர்பாக திரு.கணேசன் என்பவரால் சென்னை உயர்நீதிமன்றம் மதுரை கிளை, மதுரையில் தொடரப்பட்ட W.P(MD)No.7310 of 2018 வழக்கில் 19.04.2018 அன்று வழங்கப்பட்ட தீர்ப்பின் அடிப்படையில், தாத்துக்குடி இந்து சமய அறநிலையத்துறை உதவி ஆணையரால் மேற்படி திருக்கோயில் தொடர்பாக 02.07.2018 அன்று திரு.பி.எஸ்.கனகராஜ், திரு.எஸ்.கணேசன் மற்றும் திரு.செ.அழகுவேல் ஆகியோரிடமும் மற்றும் திரு.சி.அழகுவேல் என்பவர் வேண்டிக்கொண்டவாறு அன்னாரிடமும் 09.07.2018 அன்றும், மேலும் 12.07.2018 அன்று திருச்செந்தூர் சரக ஆய்வரிடம் உதவி ஆணையரால் விசாரணை மேற்கொள்ளப்பட்டு வாக்கு மூலம் பெறப்பட்டுள்ளது. மேற்படி திருக்கோயில் சட்டப்பிரிவு பிரிவு 6(20)ல் சொல்லப்பட்டுள்ள கோயில் என்ற வரையறைக்குள் வருவதால் மேற்படி திருக்கோயிலை இத்துறை ஆளுகையின்கீழ் கொண்டு வரலாம் என ஆய்வர் தமது வாக்குமூலத்தில் தெரிவித்து, மேற்படி திருக்கோயிலுக்கான முதல் அறிக்கையும் ஆய்வரால் சமர்ப்பிக்கப்பட்டுள்ளது.

அதனை தொடர்ந்து மேற்படி திருக்கோயிலை உதவி ஆணையரால் 17.08.2018 அன்று நேரடியாக முகாம் மேற்கொள்ளப்பட்டு மேற்படி திருக்கோயிலை



W.P(MD)No.7886 of 2020

உதவி ஆணையரால் நேரில் பார்வையிடப்பட்டுள்ளது என்ற விவரம் பணிந்து தெரிவித்துக்கொள்ளப்படுகிறது. ஏனவே திருச்செந்தூர் வட்டம், செட்டியாபத்து, அருள்மிகு வென்னிமடந்தையன் சாஸ்தா திருக்கோயில் அனைத்து சமுதாய மக்களும் வழிபடுவதாலும், 1959ம் வருட இந்து சமய அறக்கோடைகள் சட்டம் பிரிவு 6(20) ல் சொல்லப்பட்டுள்ள கோயில் என்ற வரையறைக்குள் வருவதாலும் இத்துறையின் நேரடி ஆள்கையின் கீழ் கொண்டு வந்தால் திருக்கோயில் நன்கு வளர்ச்சி அடைய வாய்ப்புகள் உள்ளதாலும், அதிக அளவில் இத்திருக்கோயில் நிர்வாகம் சம்பந்தமாக புகார் மனுக்கள் அனுப்பப்படுவதாலும், திருக்கோயில் நிர்வாகத்திற்கு அவப்பெயர் ஏற்படுவதாலும், திருக்கோயில் நிர்வாகத்தை ஒழுங்குபடுத்துவதற்கும் அருள்மிகு வென்னிமடந்தையன் சாஸ்தா திருக்கோயிலை இத்துறை நேரடி ஆள்கையின் கீழ் கொண்டு வந்து திருக்கோயில்கள் பட்டியலில் சேர்த்து உத்தரவிடலாம் என்ற விபரம் பணிந்து தெரிவித்துக்கொள்ளப்படுகிறது. இத்துடன் ஆய்வரது அறிக்கை, முதலறிக்கை மற்றும் அதன் இணைப்புகள் ஆகியவை பணிந்து சமர்ப்பிக்கப்படுகிறது.”

10. The report of the Assistant Commissioner dated 20.08.2018 states that Mr. Ganesan, the 6<sup>th</sup> respondent herein filed W.P. (MD) No. 7310 of 2018, leading the Assistant Commissioner to conduct inquiries regarding the subject Temple. It further states that depositions were obtained from Mr. P.S. Kanagaraj, Mr. S. Ganesan, the 6<sup>th</sup> respondent herein and Mr. S. Alaghuvel, the deponent of the petitioner temple and the inquiry concluded that the temple falls under the definition of a "temple" as per Section 6(20) of the Hindu Religious and Charitable Endowments Act, 1959. It further stated that the temple was inspected on 17.08.2018, confirming its eligibility to be brought under the department's control. The Assistant Commissioner, the 4<sup>th</sup> respondent herein recommended that the temple be placed under the direct administration of the department given its



W.P(MD)No.7886 of 2020

potential for growth and existing management complaints,.

WEB COPY

11. The deponent incidently has also filed O.A.No.41 of 2021 before the Joint Commissioner under Section 63(a) of the Hindu Religious and Charitable Endowments Act, 1959 before the Joint Commisioner, HR&CE Department, Tuticorin to declare the subject Temple as a private Temple wherein an Advocate Commissioner was also appointed to inspect the Temple and to give a report in I.A.No.1 of 2023 in O.A.No.41 of 2021 filed by the 5<sup>th</sup> respondent herein. Order dated 24.11.2023 in I.A.No.1 of 2023 in O.A.No.41 of 2021 was the subject matter of W.P(MD)No.31333 of 2023 filed by the deponent of the petitioner Temple which was closed on 01.08.2024 by this Court.

12. The counter filed by the 7<sup>th</sup> respondent states that the Temple was taken over pursuant to the report of the 4<sup>th</sup> respondent and that during the enquiry, the deponent, namely S.Alaguvel was informed about the same.

13. The counter filed by the 4<sup>th</sup> respondent on behalf of the respondents 1,2 and 3 as well states that admittedly the possession and enjoyment of the Temple land to an extent of 12 Acres in total was with the deponent of the petitioner.



W.P(MD)No.7886 of 2020

14. The counter further states that during the Temple festival such as Panguni Uthiram Thiruvizha, more than 1000 persons from different communities would participate and that there are approximately 640 persons who pay Uthiram Vari (Tax). It further states that the amounts that were collected as Uthiram Vari (Tax) were used for Pooja expenses for pooja conducted through out the year in the Temple.

15. The counter further states that during enquiry, it was found that the deponent S.Alaguvel who has filed O.A.No.41 of 2021 had never paid any lease amount for possession and enjoyment of 12 Acres of land and that he had not taken any steps to lease out the Temple property to public auction to generate income and utilize it for the development of the Temple.

16. The counter further states that a detailed report was submitted to the 1<sup>st</sup> respondent by the 4<sup>th</sup> respondent wherein it was recommended that the Hindu Religious and Charitable Endowments Department should take over the control of the Temple. In the counter, it was further stated that a civil suit was filed by the deponent's father, namely Chelladurai Nadar was only for bare injunction against the 3<sup>rd</sup> party and was not connected with the department.



W.P(MD)No.7886 of 2020

17. It further stated that the 2<sup>nd</sup> Respondent passed the impugned order in NE.Mu.No.4068/2019/E2, dated 05.06.2020 exercising the power under Section 23 of the Act, based on the 2<sup>nd</sup> Respondent's communications dated 20.08.2018, 23.07.20019 and 10.03.2019 and that the 2<sup>nd</sup> Respondent passed the impugned order in Se.Mu.Nu.Ka.No.769/2018/Aal/ dated 02.07.2020 under Section 49(1) of the Act appointing 7<sup>th</sup> respondent as the "Fit person" for the Temple as no explanation was received from the petitioner to the show cause Notice issued to the deponent of the petitioner on 08.06.2020.

18. On the legal submissions, the learned counsel for the official respondents has referred to Paragraph No.15 of the counter and the same reads as under:

*"15. I submit that it is a settled law that all temples in Tamil Nadu are Public temples unless they are declared as not religious Institutions as per section 63 (a) of the Act. The impugned proceedings dated 05-06-2020 of the 2<sup>nd</sup> respondent is merely a record of fact that the temple in issue is a Public temple. Therefore, no notice is necessary for issuing it. An opportunity before actually taking control of temple by appointment of fit person only has to given. In the instant case, show cause notice was issued to petitioner and he sought for time to explain and the proceedings of 2<sup>nd</sup> respondent, which was also served on him. Despite opportunity given, he did not respond. The fit person was appointed by proceedings dated 02-07-2020 only subsequently. Therefore, there is no legal ground for petitioner to challenge the impugned orders. Hence the Writ Petition is misconceived and is*



W.P(MD)No.7886 of 2020

*devoid of merits and deserves to be dismissed.”*

WEB COPY

19. The learned counsel for the 7<sup>th</sup> respondent / fit person has drawn attention to an order passed by this Court in W.P(MD)No.3596 of 2020, dated 11.03.2020, in Paragraph Nos.6,7 and 13, which reads as under:

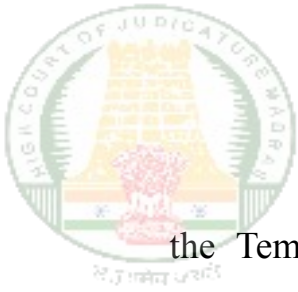
*“6. In view of the submissions made, a restricted right is given to the petitioner herein to enter upon the lands of the temple to take care of the crops grown there till the next hearing date and thereafter, get further directions from this Court.*

*7. Naturally, the petitioner cannot encumber or deal with the property and cannot claim any further right. This is stated in view of the apprehension placed by the learned Special Government Pleader.*

*13. Interim direction to enter into the lands of the temple will continue till 08.04.2020. Any expenditure or income earned from taking care of the agricultural products may be properly accounted for by the petitioner.”*

20. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the official respondents and the private respondents.

21. The impugned order of the second respondent dated 05.06.2020 is based on the report of the fourth respondent, Assistant Commissioner indicating the conduct of the deponent of the petitioner i.e., Mr.S.Alaguvel, as the trustee of the petitioner temple, has misused the possession and enjoyment of 12 Acres of



W.P(MD)No.7886 of 2020

the Temple land and had not properly maintained records for the collected amount.

22. *Prima facie*, there are indications that the petitioner temple is a public temple and therefore it would come with a purview of the H.R. & C.E. Department under the provisions of H.R. & C.E. Department. However, before declaring a temple to be a public temple coming with the purview of the H.R. & C.E notice ought to have been issued to the deponent of the petitioner that the control of the temple was taken over by the H.R. & C.E. department.

23. Similarly, the impugned show cause notice dated 09.06.2020, issued by the 4<sup>th</sup> respondent, provided only few days time for the deponent of the petitioner Temple to respond and immediately thereafter on 02.07.2020, a fit person has been appointed, within one week after furnishing the copies of proceedings referred to in the impugned Order dated 05.06.2020 to the deponent of the petitioner Temple vide letter dated 22.06.2020. The appointment has been made purportedly pursuant to direction of this Court in W.P.No.3596 of 2020 dated 11.03.2020.



W.P(MD)No.7886 of 2020

24. Under these circumstances, this Court is of the view that there are violations of principles of natural justice. Therefore, the impugned orders are liable to be quashed and accordingly quashed.

25. Consequently, the impugned order dated 05.06.2020 and Consequential Show Cause Notice dated 08.06.2020 shall be treated as a addendum to the Show Cause Notice. The petitioner represented by the deponent shall reply within a period of 30 days from the date of receipt of a copy of this order. The 1<sup>st</sup> respondent shall thereafter pass appropriate orders on merits within a period of 3 months. In case, a decision is taken thereafter to take over the temple, the impugned order dated 02.07.2020 passed by the 4<sup>th</sup> respondent appointing a fit person shall be acted upon.

26. With the above observations, this writ petition stands allowed. No costs. Connected Miscellaneous Petitions are closed.

02.09.2024

Index: Yes/ No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case: Yes/No  
kkd



W.P(MD)No.7886 of 2020

To:

1. The Commissioner/Principal Secretary,  
Hindu Religious and Charitable  
Endowments Department,  
Chennai 600 034.
2. The Joint Commissioner (Head Quarters),  
Office of the Commissioner/Principal Secretary,  
Hindu Religious and Charitable  
Endowments Department,  
Chennai 600 034.
3. The Joint Commissioner (Head Quarters),  
Hindu Religious and Charitable  
Endowments Department,  
Tirunelveli.
4. The Assistant Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Thoothukudi.



WEB COPY



W.P(MD)No.7886 of 2020

C.SARAVANAN, J.

kcd

Pre-delivery Order in  
W.P(MD)No.7886 of 2020

02.09.2024