



Crl.O.P.(MD)No.18355 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	13.11.2024
Pronounced On	21.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.18355 of 2024

1.Pitchaiah Gurukkal
2.K.Appar Moorthy
3.N.Subbaiah Gurukkal
4.S.Suyamburajan Gurukkal
5.P.Shanthamoorthi

... Petitioners

Vs.

1.The Superintendent of Police,
Tirunelveli District.

2.The Deputy Superintendent of Police,
Valliyoor Sub Division,
Tirunelveli District.

3.The Inspector of Police,
Uvari Police Station,
Tirunelveli District.

4.P.K.S.T.Radhakrishnan

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the respondents 2 and 3 not to harass the petitioners under the guise of exercising their powers.



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For Petitioners : Mr.E.Om Prakash
Senior Counsel
for Mr.R.Anand

For R1 to R3 : Mr.K.Sanji Gandhi
Government Advocate (Criminal side)

For R4 : Mr.V.Chandrasekar

ORDER

The petitioners, Gurukkals of Arulmigu Suyambulinga Swamy Thirukovil, Uvari, alleging that they were forcibly evicted from performing the poojas to the deities by respondents 2 and 3, at the instigation of the fourth respondent, have filed the present petition, seeking a direction to respondents 2 and 3 not to harass them.

2. The learned Senior Counsel appearing for the petitioners submitted that the Temple is over 1,000 years old and is now under the control of the H.R. & C.E. Department. The Joint Commissioner of the H.R. & C.E. Department, Tirunelveli, is overseeing the temple's functioning. The petitioners traditionally perform their regular pooja activities, including Abishekam, Alangaram, Deepam Kattudhal, preparation of Neiveithiam, offering of Vibuthi, and other incidental services related to the pooja. These services were originally carried out by



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their forefathers, and after them, the right inherited by the petitioners in line with the succession.

3. The learned Senior Counsel further submitted that the fourth respondent appointed as Hereditary Trustee of the Temple, for ulterior motives, influenced officials, made various attempts to remove the petitioners from performing their services. Hence, the petitioners' Association filed a civil suit in O.S.No.182 of 1997 before the I Additional Sub Court, Tirunelveli. The fourth respondent filed civil suits in O.S.Nos.120 of 1997 and 184 of 1997 against the petitioners' Association. All suits decided simultaneously, and the suits filed by the fourth respondent dismissed. Aggrieved by the same, the fourth respondent filed appeal before the I Additional District Court, Tirunelveli. Once again, he was unsuccessful. Subsequently, he filed Second Appeals in S.A.Nos.2057, 2058, and 2059 of 2002 before this Court. The petitioners' Association filed S.A.(MD)No.412 of 2004. All second appeals were consolidated, and a common judgment was delivered by this Court on 02.02.2023.



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4. The learned Senior Counsel submitted that the essence of the second appeals is that the petitioners are entitled to continue to serve as priests until they are qualified to perform priestly duties, as per the Service Rules framed under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"] and subject to the disciplinary control of the hereditary trustee. Therefore, the petitioners were declared entitled to continue performing poojas. In this context, the fourth respondent, the Hereditary Trustee, issued a notice to the petitioners on 09.08.2018, requesting age proof and other details to regularize their service.

5. The learned Senior Counsel further submitted that since the second appeals were pending, which would have a bearing on the notice given to the petitioners, they not responded taking exceptions. However, the Hereditary Trustee suspended the petitioners, framed charges against them, and ultimately dismissed them from service. Aggrieved against the dismissal, the petitioners approached the Commissioner in R.P.Nos.160 to 176 of 2020. The Commissioner of the H.R. & C.E. Department, without properly considering the petitioners' case, influenced by the common judgment passed in the second appeals on 02.02.2023, concluded that the



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petitioners could not claim hereditary right to the position of Poojari. He further concluded that the petitioners were bound by the service rules framed under the H.R. & C.E. Act, subject to the disciplinary control of the Hereditary Trustee. The petitioners were directed to submit the statutory documents requested by the Hereditary Trustee, who, thereafter, was to regularize the service of all eligible petitioners in accordance with the rules. Further, the Commissioner directed the petitioners to cooperate with the Hereditary Trustee in conducting poojas, festivals, and other related tasks. Therefore, the petitioners' right to perform poojas and other services in the temple not curtailed.

6. The learned Senior Counsel further submitted that, since the petitioners need to be brought under the purview of the Tamil Nadu Hindu Religious Institutions (Officers and Servants) Rules, 1994, they have had confrontations with the fourth respondent and the Temple authorities. Aggrieved over the Commissioner's order, the petitioners filed revision petitions before the Principal Secretary, Tourism, Culture, and Religious Endowments Department, Government of Tamil Nadu, under Section 114 of the H.R. & C.E. Act. This petition is still pending. Meanwhile, the fourth respondent appointed non-hereditary Poojaris on



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his own and obstructing the petitioners from performing the Pooja.

Consequently, the petitioners submitted a representation on 18.10.2024 to the Superintendent of Police, Tirunelveli, citing the judgment of this Court in the second appeals and the order in Crl.O.P.(MD)No.12603 of 2023 and requested the fourth respondent, the Hereditary Trustee, be restrained from influencing officials and preventing the petitioners from performing Poojas or evicting them from the Temple. Since the representation not considered and no proper protection provided, now, the petitioners, being harassed, filed the present Petition.

7. The fourth respondent filed a counter affidavit stating that he is the Hereditary Trustee of the Temple. This petition is not maintainable, as the petitioners acted contrary to the interests of the Temple, particularly within the public Temple. He further stated that the petitioners' right to hereditary succession to the Poojariship no longer exists, as their claim to hereditary rights is based on a misunderstanding the Act. After the amendment to Section 55 of the H.R. & C.E. Act, through Act 2 of 1971, the appointment of hereditary Poojaries and Archakas abolished. This amendment was challenged earlier before the Hon'ble Supreme Court in the case of **His Holiness Srimad Perarulalu Ethiraja Ramanuja Jeeyar**



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Swami etc. vs. State of Tamil Nadu reported in **AIR 1972 SC 1586** and

N.Kumaraswamy Gurukkal vs. Commissioner, H.R. & C.E., reported in **2000 (3) MLJ 211 : 2000 (4) CTC 7**, wherein the Hon'ble Supreme Court upheld the amended provisions of Section 55 of the H.R. & C.E. Act.

8. The petitioners filed civil suits in the lower Courts since 1997. After progressing through various stages, the matter eventually reached this Court in second appeals, where all the cases involving the petitioners and the fourth respondent were consolidated in S.A.Nos.2057, 2058 and 2059 of 2002 and S.A.(MD)No.412 of 2004 and common judgment delivered on 02.02.2023 and this Court held the petitioners are bound by the service rules framed under the H.R. & C.E. Act and must cooperate with the fourth respondent, the Hereditary Trustee. This Court also ruled that the Hereditary Trustee is empowered to take any disciplinary action against the petitioners. Accordingly, the fourth respondent has taken disciplinary action against the petitioners.

9. The fourth respondent passed an order under Section 56 of the H.R.& C.E. Act against the so-called Hereditary Gurukkals, notice to



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petitioners on 09.08.2018 to provide age proof and other details for regularizing their services. The petitioners failed to submit the details, but gave reply dated 22.10.2018, seeking for restraining from regularization, again notice issued, since the petitioners not attended the enquiry. They were suspended, charges framed, finally, the petitioners dismissed from their service. Thereafter, the petitioners filed appeal before the Joint Commissioner, who by order dated 10.09.2020, dismissed the appeals, confirming the order passed by the Hereditary Trustee, fourth respondent, against which, Revision filed before the Commissioner in R.P.Nos.160 to 176 of 2020. The Commissioner, by order dated 29.09.2023, disposed the Revision, holding the petitioners cannot claim Hereditaryship as Poojaries and they are bound by the service rules framed under the H.R. & C.E. Act. Subject to the disciplinary control of Hereditary Trustee, further directing the petitioners to submit all statutory documents to the Hereditary Trustee for regularizing their services, the Hereditary Trustee shall take action to regularize the services of all eligible petitioners strictly in accordance with rules and the provisions to co-operate with the Hereditary Trustee in this regard. The petitioners shall continue to work under the Hereditary Trustee, co-operate with the Hereditary Trustee in all activities such as Poojas, festivals etc. The petitioners restrained from selling Pooja articles



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or any other articles related to Pooja inside the Temple premises. In the event of not adhering to these conditions, the Hereditary Trustee to initiate disciplinary action as per law. Against the Commissioner's order dated 29.09.2024, the petitioners now contend, they had preferred revision to the Secretary under Section 114 of the H.R. & C.E. Act. In fine, the Hereditary Trustee taking action against the erring petitioners confirmed. In such situation, again, in total disregard to the H.R. & C.E. Act and the Rules and judgment of this Court in Second Appeals and in Revision, the petitioners and others continued their activities, when questioned and restrained by the Hereditary Trustee, the petitioners went to the extent of locking the *sanctum sanctorum* and all other Sannathis, forced out lawfully appointed persons from conducting Poojas. The conduct of the petitioners are nothing but grabbing the Temple from the Hereditary Trustee, who is the administrative head of the Temple under the H.R. & C.E. Act. Hence, the fourth respondent gave representation to the Joint Commissioner, H.R. & C.E. Department on 06.09.2024 and to the Police authorities, since the Temple was forcibly closed by the petitioners, Poojas not conducted, devotees denied entry and worship. Thereafter, the Joint Commissioner deputed eight officials of the Department, and directed the Assistant Commissioner, H.R. & C.E.



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Department to restore the situation, ensure proper conduct of Poojas and worshippers to have their darshan without obstruction. The Assistant Commissioner, H.R. & C.E. Department, by communication in Na.Ka.No. 5360, dated 24.09.2024, requested the second respondent, Police aid and protection to remove the obstructors and obstructions. The Joint Commissioner in Na.Ka.No.8851, dated 10.10.2024, again deputed officials and instructed the Assistant Commissioner to ensure removal of obstructions and ensure continuing of Poojas in the Temple, for this reason only, Police protection sought and now obstructions removed, which cannot be termed as harassment to the petitioners. Hence, prayed for dismissal of the petition.

10. The learned Government Advocate (Criminal side) submitted that the Temple Arulmigu Suyambulinga Swamy Thirukovil, Uvari, in an ancient Temple. Large number of devotees regularly visit the Temple. The Temple is a listed Temple, under the overall administration of the H.R. & C.E. Department, administered by fourth respondent, who is a declared Hereditary Trustee. There was dispute between the Hereditary Trustee and the petitioners, who claim Hereditary Archakas. The contentious issue between the petitioner and the fourth respondent



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prevailing from 1997 onwards, civil suits filed, finally reached this Court in second appeals. This Court pronounced judgment in second appeals on 02.02.2023. Earlier, the fourth respondent taken disciplinary action against the petitioners, initially, suspended the petitioners, later, terminated them from service as Archakas, appeals filed before the Joint Commissioner by the petitioners, appeals dismissed, now, revisions pending before the Secretary, H.R. & C.E. Department. Since the petitioners claim of Hereditary Poojariship denied, they were asked to regularize their service, by filing relevant documents with the fourth respondent. The petitioners not done so, but continued to squat inside the Temple and also forcibly took control of the Temple. Thereafter, on the request of the H.R. & C.E. Department, Police protection provided to the H.R. & C.E. authorities to remove the obstruction, squatters, to ensure Poojas to be performed and devotees to have a safe and peaceful worship. Now, the obstruction and Police pickets removed, and the Temple is functioning without any obstruction. The act of the respondent Police in enforcing law and order cannot be termed as harassment to the petitioners.

11. Considering the rival submissions, this Court finds the undisputed fact is that the Temple Arulmigu Suyambulinga Swamy



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Temple, Uvari, Tirunelveli District, is a listed Temple. The petitioners are Gurukkals of the Temple and the fourth respondent is its Hereditary Trustee. The Temple is under the control of the H.R. & C.E. Department, administered by the Hereditary Trustee.

12. The petitioners claim that from time immemorial, twenty households, now, twenty six household male members perform Poojas in the Temple and their Poojariship are by family succession. The right of hereditary succession to the office of Archaka has been abolished by the Tamil Nadu Act 2 of 1971, which came into force on 08.01.1971. As per Section 55 of the H.R. & C.E. Act, the vacancy among the office-holders or servants of a religious institution shall be filled up by the Trustee. The expression "office-holders and servants", shall include Archakas and Poojaris. Hence, the Poojaris will be governed by the Tamil Nadu Hindu Religious Institutions (Officers and Servants) Service Rules, 1964. The Hon'ble Apex Court upheld the amended provisions of Section 55 of the H.R. & C.E. Act. Civil suits filed between the fourth respondent and the petitioners and their group, finally reached this Court in S.A.Nos.2057, 2058 and 2059 of 2002 and S.A.(MD)No.412 of 2004, a common judgment delivered on 02.02.2023. The essence of the judgment is that



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the petitioners and other Gurukkals are entitled to continue as priests till they are qualified to perform the duties as per the service rules framed under the H.R. & C.E. Act and subject to the disciplinary control of Hereditary Trustee. The respondents in S.A.No.2057 of 2002 are entitled to continue to perform as Poojaris, subject to the disciplinary control by the Hereditary Trustee. The order of the Commissioner is on the similar lines. In view of the above, the claim and status of the petitioners as Gurukkals cannot be ignored, but it is subject to the service and disciplinary rules. The contention of the petitioners with regard to the procedure followed in disposing their appeals in a summary manner by the Joint Commissioner. The petitioners' revision petitions disposed by the Commissioner not considering their revisions independently, swayed by the second appeals judgment, which are post events to the impugned order, is the contention of the petitioners, which are now pending before the Secretary under Section 114 of the H.R. & C.E. Act. Hence, this Court refrains from giving any opinion on these issues.

13. In sum and substance, the petitioners / Gurukkals can very well perform their religious function, of course, subject to service and disciplinary rules and under the administrative control of the Hereditary



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Trustee. It is the bounden duty of the petitioners not to create any law and order issues.

14. The learned Government Advocate (Criminal side), on instructions, submits that now, normalcy restored, the Temple is functioning and Poojas regularly conducted. Insofar as the petitioners plea for conducting Poojas is concerned, it is for the petitioners to approach the Hereditary Trustee and H.R. & C.E. officials in this regard.

15. With the above observations, this Criminal Original Petition is disposed of.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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To

21.11.2024

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Tirunelveli District.
- 2.The Deputy Superintendent of Police,
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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Pre-delivery order in
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