

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 16505 of 2013 (K)

PETITIONER(S):

**SREE RAGHAVAPURAM TEMPLE (HANUMAR AMBALAM)
REPRESENTED BY ITS EXECUTIVE OFFICER P.T.MURALIDHARAN,
S/O. K.V.KRISHNA WARRIER, AGED 45 YEARS,
SREE RAGHAVAPURAM TEMPLE, CHERUTHAZHAM, MANDOOR P.O.,
KANNUR DISTRICT - 670 050.**

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
REVENUE (DEVASWOMS) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE COMMISSIONER,
MALABAR DEVASWOM BOARD, KOZHIKODE,
KOZHIKODE DISTRICT - 673 001.**
- 3. P.GOVINDAN NAMBOODIRI, AGED 43 YEARS,
S/O SAMBU NAMBOODIRI, PALLITHOTTILLAM, MANDOOR P.O.,
CHERUTHAZHAM AMSOM, DESOM,
KANNUR DISTRICT.**

**R1 BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL
R2 BY SRI.V.KRISHNA MENON, SC
R3 BY ADVS. SRI.T.MADHU
SRI.PRAMOD UDINOOKKARAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 16505 of 2013 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE ENQUIRY REPORT DATED 9.11.2006 SUBMITTED BY
THE DOMESTIC ENQUIRY OFFICER.**

**EXHIBIT P2: TRUE COPY OF ORDER OF THE DEPUTY COMMISSIONER H.R. & C.E.
(ADMN) DEPARTMENT KOZHIKODE DATED 24.9.2007.**

**EXHIBIT P3: TRUE COPY OF THE ORDER OF THE COMMISSIONER, MALABAR
DEVASWOM BOARD, KOZHIKODE DATED 27.8.2010.**

**EXHIBIT P4: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN
WPC NO.15918/2012 DATED 2.11.2012.**

**EXHIBIT P5: TRUE COPY OF LAWYER NOTICE DATED 20.6.2013 ISSUED BY THE
COUNSEL FOR THE THIRD RESPONDENT TO THE PETITIONER.**

**EXHIBIT P6: TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT
DATED 30.5.2013.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 16505 of 2013

Dated this the 27th day of January, 2015

J U D G M E N T

Aggrieved by Ext.P6 order issued by the 1st respondent, the petitioner has come up before this Court.

2. The petitioner is the Executive Officer of Sree Raghavapuram Temple under the Malabar Devaswom Board. The 3rd respondent, who was working as 'Santhi' in the said temple, was suspended from service in 2005 on charges of misappropriation, unauthorized absence and bad behaviour. Pursuant to the suspension, a domestic enquiry was conducted; and vide Ext.P1 report, the 3rd respondent was dismissed from service. The 3rd respondent challenged the dismissal before the Deputy Commissioner under the HR & CE Act, which was dismissed vide Ext.P2 order. Aggrieved by Ext.P2 order, the 3rd respondent challenged the same before the Commissioner, Malabar Devaswom Board, which also was dismissed vide Ext.P3 order. The 3rd respondent approached this Court challenging Ext.P3 order; and this Court, vide

..2..

Ext.P4 judgment, disposed of the writ petition holding that the remedy open to the 3rd respondent was to prefer a revision before the 1st respondent under the HR & CE Act. Thereafter, on 25.06.2013, the petitioner received Ext.P5 lawyer notice on behalf of the 3rd respondent stating that the revision allegedly preferred by the 3rd respondent before the 1st respondent was allowed and that the 3rd respondent ought to be reinstated immediately. Therefore, the petitioner obtained Ext.P6 order issued by the 1st respondent on 30.05.2013. The petitioner alleges that no notice of hearing or even a copy of the revision petition allegedly filed by the 3rd respondent was received by the petitioner. According to the petitioner, Ext.P6 order is arbitrary, illegal and unjust, and therefore, liable to be set aside.

3. Arguments have been heard.

4. Mr.V.Ramkumar Nambiar, inviting my attention to Ext.P6, which is impugned, would submit that the copy of Ext.P6 was not even marked to the petitioner and the same would indicate that the petitioner was not afforded an opportunity of being heard. I see valid force in the said submission.

..3..

As Ext.P6 order was passed without affording the petitioner an opportunity of being heard, this Court is of the view that Ext.P6 order has to go.

Therefore, the writ petition is allowed.

Ext.P6 is quashed.

The 1st respondent is directed to reconsider the issue after affording the petitioner as well as the 3rd respondent an opportunity of being heard, which shall be done within a period of one month from the date of receipt of a copy of this judgment.

To facilitate an early action, the petitioner as well as the 3rd respondent shall appear before the 1st respondent on 11.02.2015 at 11 am, along with a copy of this judgment and a copy of the writ petition so that further action could be expedited. If the 1st respondent fails to hear the parties on the aforesaid date, the next date of hearing shall be informed to the petitioner without fail.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-