

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.Nos.31657 to 31661 of 2015

and M.P.Nos.1 to 1 of 2015

P.R.Srinivasan Petitioner in W.P.No.31657/2015
P.R.Achuthan Petitioner in W.P.No.31658/2015
Tmt.Rukmani Petitioner in W.P.No.31659/2015
P.R.Revathi Petitioner in W.P.No.31660/2015
P.R.Padmavathy Petitioner in W.P.No.31661/2015

-Vs-

- 1.The Commissioner of HR & CE,
Administration Department,
Chennai - 34.
- 2.The Joint Commissioner HR & CE, Salem
Kottaimariamman Temple Complex,
Salem - I.
- 3.The Executive Officer,
Salai Vinayakar Temple,
Dharmapuri District - 636 809.
- 4.A.Nagarajan Respondents in all W.Ps

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari to call for the records of the impugned order dated 29.09.2015 passed by the 3rd respondent herein and quash the same.

For Petitioners : Mr.M.Narayanaswamy
(in all W.Ps)

For Respondents : Mr.K.V.Dhanapalan,
(in all W.Ps) Additional Government Pleader (R1 to R3)

C O M M O N O R D E R

By consent, all the Writ Petitions are taken up for final disposal as the issues involved are one and the same.

2.By order dated 28.07.2015, the petitioners were suspended as hereditary trustees. The order of suspension was passed pending disposal of the charges framed against them. Incidentally, by the order impugned dated 29.09.2015, a fit person is appointed by exercising the power under Section 53(4) of the Hindu Religious and Charitable Endowments Act. Against the order dated 28.07.2015, the petitioners filed an appeal to the respondent no.1 on 14.08.2015 along with the stay application. There was no stay granted pending appeal, resulting in the order impugned having been passed. Challenging the same, the present Writ Petitions have been filed.

3.The learned counsel for the petitioners submitted that the mandate of Section 54 (2) of the Act has not been followed. Neither there is any stay granted in favour of the petitioners nor next in line has been appointed.

4.The learned Additional Government Pleader appearing for the respondents submitted that admittedly, the power under Section 54 (2) has not been exercised. What has been done is under Section 53 (4) of the Act. There is no punishment imposed against the petitioners, but they have been suspended, pending disposal of the charges framed against them. Therefore, Section 53 (2) of the Act will not have any application.

5.The petitioners have challenged the order dated 28.07.2015, by which they have been suspended, pending disposal of the charges framed against them. Thus, the order passed, which is under challenge before the respondent no.1 is not passed under Section 53 (2) of the Act, therefore, there is no application of Section 54 (2) of the Act, since no order has been passed under Section 53 (2). The petitioners have not obtained any order of stay before the respondent no.1. Thus, the power under Section 53 (4) of the Act has been rightly exercised. Hence, this Court does not find any reason to entertain these Writ Petitions. However, considering the facts and circumstances of the case, the respondent no.1 is directed to dispose of the Appeal in A.P.No.17 of 2015 within a period of six weeks from the date of receipt of a copy of this order, making it clear that the orders impugned would be subject to the final order that is likely to be passed in A.P.No.17 of 2015.

6.The Writ Petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Commissioner of HR & CE,
Administration Department,
Chennai - 34.

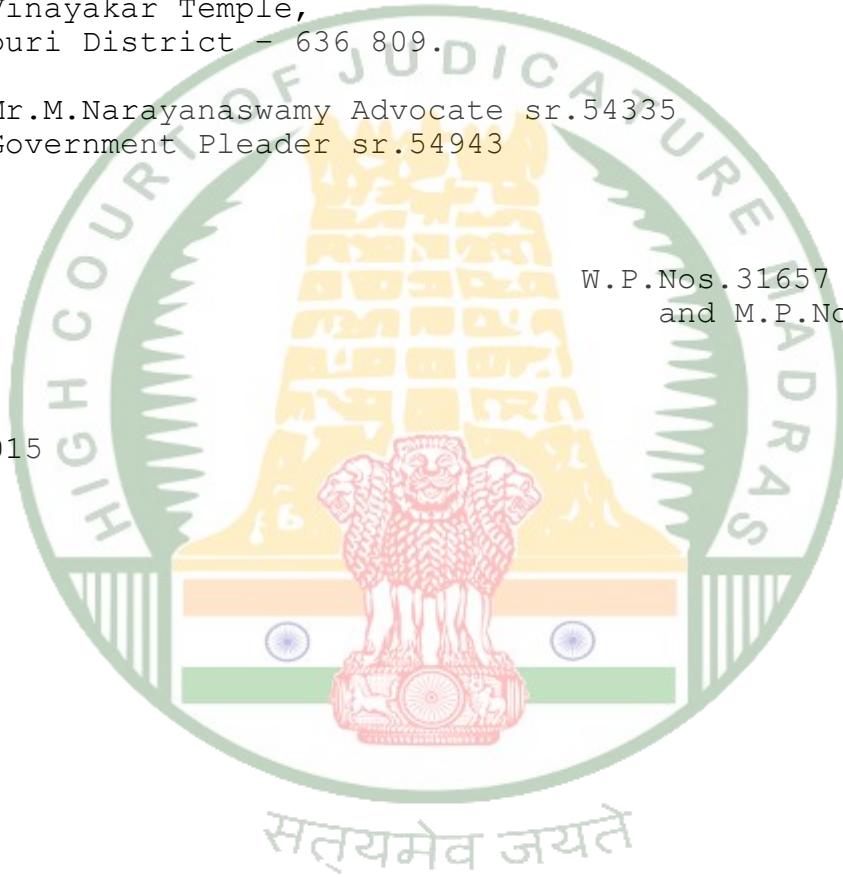
2.The Joint Commissioner HR & CE, Salem
Kottaimariamman Temple Complex,
Salem - I.

3.The Executive Officer,
Salai Vinayakar Temple,
Dharmapuri District - 636 809.

+1 cc to Mr.M.Narayanaswamy Advocate sr.54335
+1 cc to Government Pleader sr.54943

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