

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33795 of 2013 and M.P.Nos.2 and 3 of 2013
and
M.P.no.1 of 2014

1. Govind Das Purshotham Das,
Presiding Hereditary Trustee
Arulmigu Lakshmi Narasimha Swamy Temple,
Palayaseevaram - 631 006
Kancheepuram District
2. Surendra Kumar V Shroff,
Hereditary Trustee,
Arulmigu Lakshmi Narasimha Swamy Temple,
Palayaseevaram - 631 006
Kancheepuram District
3. Mathura Das Hari Das,
Hereditary Trustee,
Arulmigu Lakshmi Narasimha Swamy Temple,
Palayaseevaram - 631 006
Kancheepuram District

...Petitioners

Vs

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam, Chennai - 600 034
2. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment department,
Kancheepuram.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent comprised in his proceedings in Se.Mu.Na.Ka.No.56980/2013/A1 dated 15.11.2013 and quash the same in so far as it relates to the suspension of the petitioners as

Trustees of Arulmigu Sree Lakshmi Narasimha Swami Temple, Palayaseevaram as being violative of Section 54(3) of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959 besides being violative of the principles of natural justice.

For Petitioners : Mr.Sathish Parasaran

For Respondents : Mr. S.Kandaswamy
Special Government Pleader (HR & CE)

O R D E R

Heard Mr.Sathish Parasaran, learned counsel appearing for the petitioner and Mr. S.Kandaswamy, learned Special Government Pleader (HR & CE) appearing for the respondents.

2.The petitioners have filed this Writ Petition challenging the order dated 15.11.2013 passed by the 1st respondent by which the petitioners, who are the trustees of the Arulmigu Lakshmi Narasimha Swamy Temple, Palayaseevaram have been suspended from their trusteeship.

3. The petitioners have challenged the impugned proceedings as arbitrary, illegal and against principles laid down in the HR & CE Act. It is submitted that the allegation made in the impugned proceedings, which also contains the charges against the petitioners, do not warrant any suspension. It is submitted that the petitioners in their capacity as Hereditary trustees addressed a complaint to the Police Department as well as Assistant Commissioner, HR and CE with regard to the encroachment and illegal sand mining activities carried on by third party/ lorry owners in the temple lands. Therefore it is submitted that shifting the blame solely on the shoulders of the petitioners is illegal and it is the Assistant Commissioner HR & CE and Joint Commissioner, who expected to take action in terms of the provisions of HR and CE Act, when complaints were brought to the notice by the petitioners' representation dated 01.11.2012. Therefore, it is submitted that the impugned order suspending the petitioners as trustees of the temple is un-sustainable in law.

4.The counter affidavit has been filed by the respondents stating that the charges have been framed vide the impugned proceedings and pending disposal of the charges, considering the seriousness of the allegations, an order has been passed invoking Section 53(4) of the Act and it is only an interim suspension and fit person has been appointed to take charge of the affairs of the temple. It is submitted that though fit person was appointed vide letter dated 28.11.2013 by the 2nd respondent, he has been prevented

by the petitioners from taking charge. Further it is submitted that on account of the order of status quo granted by this Court, the respondents are not able to proceed further and the petitioners have also not submitted reply to their charge memo. Therefore, it is submitted that this Court may permit the fit person to take over all charges from the petitioners and the petitioners may be directed to submit their reply to the charges framed and face the proceedings.

5. There are two aspects to the impugned order namely (i) suspending the trusteeship based on the allegations, which have been made against the petitioners/trustees based on the reports submitted by the authorities and (ii) these allegations have been crystallized into seven charges. The seven charges have been listed out in the impugned proceedings, for which the petitioners have been granted 15 days time for submitting their reply. On submitting their reply, the 1st respondent is to hear the petitioners, conduct an enquiry and pass final orders. While issuing charge memo, the trusteeship of the petitioners have been directed to be placed under interim suspension by invoking power under Section 53(4) of the Act. Such procedure has been adopted by the authority as in the case of service matters when a charge proceedings is issued to a Government servant, he may be placed under suspension pending enquiry into the charges so that the charges can be enquired into. Therefore, the petitioners need not have any apprehension that their trusteeship itself has been revoked. At this stage, since the final orders are yet to be passed on the charge memo and that could be done only if the petitioners submit their reply to the charge memo, the respondent was justified in placing them under suspension. However, the petitioners case is that when they have given a complaint about illegal quarrying, the authorities refused to act on the same and blame is shifted on the petitioners. However, it is to be stated that the allegation against the petitioners is that they have printed clearance receipts/challans and issued the same.

6. In the light of the above, no grounds have been made out for quashing the impugned proceedings, which admittedly is an order of interim suspension. Accordingly the writ petition fails and the same is dismissed. However, the petitioners are directed to file their reply to the charges within a period of fifteen days from the date of receipt of copy of this order and on receipt of the reply, the 1st respondent shall afford opportunity of personal hearing to the petitioners and after hearing the petitioners pass a reasoned order on merits and in accordance with law. The petitioners are directed to handover full charge to the Fit person to enable him to proceed in accordance with law. In the interregnum, if there is illegal quarrying of sand, by any of the 3rd parties, it is open to

the 2nd respondent to initiate action in accordance with law. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(R)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam, Chennai - 600 034
2. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment department,
Kancheepuram

2 CCs to Mr.Sathish Parasaran, Advocate SR.No. 8998

W.P.No.33795 of 2013 and M.P.Nos.2 and 3 of 2013
and M.P.no.1 of 2014

RK (CO)
PSI (09.03.2015)

सत्यमेव जयते

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