

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.1587 of 2013 &
M.P.Nos.1 & 2 of 2013

- 1.Sri. Vyasaraja Mutt,
(Sosalai) having its Main office at
Krishnamurthypura, Mysore
Represented by its Administrator
Sri S.N.Prakash
S/o. Late S.Narayanadoss
Residding at No.1151- Fifth Main,
A Block, Second stage
Rajaji Nagar, Bangalore
2. R.Kuppachar Manager
Sri Vyasaraja Mutt Branch office .. Petitioner

v.

- 1.Mr.Jairaj, I.A.S.,
Administrator
Sri. Vyasaraja Mutt,
(Sosalai) having its Main office at
No.1,Benne Govindapa Chatra
Basavangudi, Bangalore
- 2.The Commissioner,
Hindu Religious and Charitable Endowments
(Admn) Department
Nungambakkam
Chennai - 34

.. Respondents

Petition filed under Article 226 of The Constitution of India
praying to issue a writ of mandamus forbearing the 1st respondent
herein not to interfere with the affairs and management of the branch
office of Sri. Vyasaraja Mutt situated at NO.1, East Tank Square
Street, Triplicane, Chennai.

For Petitioner : Mr.W.C.Thiruvengadam

For Respondent : Mr.M.S.Krishnan, Sr. Counsel
for Mr.K.S.R.Anirudha - for R1

Mr.P.Sanjay Gandhi
Addl. Govt. Pleader - for R2

ORDER

By consent, the writ petition is taken up for final disposal.

2. Before, going into the issues involved, the background facts are necessary to be looked into. In pursuant to the enquiry report dated 29.8.2011, a Government Order was passed in G.O.No.67, MuDaPra 2012, dated 26.5.2012, appointing the 1st respondent as learned Administrator. It was put into challenge by the petitioner in W.P.Nos.17370 and 17391 of 2012. The said writ petitions were dismissed with the following observation:-

" 39. ... The rights guaranteed under article 26, in other words, are protected from abuse, exploitation and mal-administration by the impugned order. In the circumstances, I do not find any merit in the writ petitions and hence petitions are dismissed."

3. Though a Writ Appeal has been filed, no interim order has been granted.

4. By order dated 20.12.2013, a Scheme Decree was also passed in Scheme Suit in Misc.No.768 of 2013. The period fixed for the learned Administrator, viz., the 1st respondent herein, was extended by subsequent Government Order in G.O.No.RD.34 MUSEVI 2014, dated 24.5.2014. A challenge was made to the said order in W.P.No.23892 of 2014 and the same was dismissed by order dated 19.6.2014.

5. The learned counsel for the petitioner submitted that an order was passed by the 2nd respondent as early as on 7.12.1990 holding that the Mutt and its the branches in Tamil Nadu are to be outside the scope of the Tamil Nadu HR & CE Act, 1959. It has been held section 24 of Chapter IV of the Mysore HR & CE Act contemplates that the provisions of the Chapters II and III shall not apply to Mutts and other institutions of similar nature. Therefore, in view of the said order passed, the 1st respondent does not have any jurisdiction. The learned counsel further submitted that the

action taken by the State of Karnataka and the order passed by the Karnataka High Court do not have any connection to the case on hand.

6. The learned Senior Counsel appearing for the 1st respondent submitted that it is a case of forum shopping the findings of the committee, the Government order and as found by the Karnataka High Court would show that a case of misfeasance and nonfeasance has been made at the instance of the petitioner. The petitioner, instead of working out the remedy before the Karnataka High Court has rushed to this court. There is no part of cause of action as provided under Article 226(2) of the Constitution of India. The Administrator of the 1st respondent is being supervised by Hon'ble Lordship Mr. Justice M.N.Venkatachalaiya and therefore, no interference is required.

7. The learned Additional Government Pleader appearing for the 2nd respondent submitted that the order passed though by the Commissioner as early as on 7.12.1990 is illegal in view of definition of Mutt as provided under section 6(13) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Therefore, the writ petition is liable to be dismissed.

8. The facts narrated speaks for themselves. The petitioner has come forward to this court placing reliance upon the order passed in R.P.No.19 of 1990, dated 7.12.1990. As rightly submitted by the learned Additional Government Pleader, finding in paragraph No.6 of the order is contrary to section 6(13) explanation to the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Similarly, the finding given in paragraph No.5 is only obiter. Since the 2nd respondent, as he then was, at the relevant point of time who did not have power or authority to go into the same.

9. Admittedly, challenge made by the petitioner before the Karnataka High Court in W.P.Nos.17370 and 17391 of 2012, against the order dated 26.5.2012 passed by the Karnataka Government in G.O.No.67 MuDaPra 2012, were dismissed and a subsequent attempt also failed. A perusal of the order dated 07.12.1990 would show that neither any of the authorities under the State of Karnataka nor any other person has been heard before passing the same. Thus, looking from any angle, there is no legal sanity to the said order. When the said order dated 07.12.1990 goes, the petitioner does not have any right to maintain the writ petition. Even the Government of Tamil Nadu does not have any role to play at this stage. The learned Administrator only seeks to deal with the administration only in pursuant to the order passed by the Government of Karnataka as approved by the Karnataka High Court under the supervision of Hon'ble Mr. Justice M.N.Venkatachalaiya. Being a party to the proceedings in the State of Karnataka, the petitioner can neither take a different stand nor seek to re-agitate the same issue.

Hence, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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- 2.The Commissioner,
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Chennai - 34
+1 cc to Mr.W.C.Tiruvengadam Advocate sr.51922
+4 ccs to Mr.K.S.R.Anirudha Advocate sr.52084

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