

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.18342 of 2013

&

M.P.NOs.1 and 2 of 2013

Arulmigu Sri Devi Boodevi Sametha
Varadharaja Perumal Thirukovil
Rep. by its Managing Committee Secretary
Thiru.P.Mariappan,
S/o.Perumal,
No.9/55, Nehruji Street,
Idaiyarpalayam, Vellalur Post,
Coimbatore - 641 111. ... Petitioner

Versus

1. The Assistant Commissioner,
Hindu Religious and Endowment Board,
Coimbatore District.
2. The Executive Officer,
A/m Mariamman and Vinayagar Thirukovil,
Sulakal, Kinathukadavu, Coimbatore - 110
Now appointed as Fit Person in
Arulmigu Sri Devi Boodevi Sametha
Varadharaja Perumal Thirukovil
Aavalapampatti, Pollachi Taluk,
Coimbatore. .. Respondents

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records relating to the order passed in Na.Ka.4012/2006/A6, dated 24.08.2010 in appointing a fit person, in the file of the first respondent and to quash the same.

* * *

For Petitioner : Mr.K.Chozhan

For Respondents: Mr.M.L.Mahendran
Govt. Advocate for R1

Mr.R.Rajesh Vivekananthan for R2

O R D E R

Heard Mr.K.Chozhan, learned counsel appearing for the petitioner, Mr.M.L.Mahendran, learned Government Advocate appearing for the first respondent, and Mr.R.Rajesh Vivekananthan, learned counsel appearing for the second respondent.

2. The petitioner has filed this writ petition challenging the order passed by the first respondent dated 24.08.2010, by which, the first respondent has appointed the second respondent herein as Fit Person of the petitioner Temple.

3. The petitioner would state that he is the Secretary of the Committee managing the temple and has been involved in the administration work of the temple all these years and Maha Kumbabishegam was also performed in 2010 by constituting a managing committee.

4. The learned counsel for the petitioner submitted that the impugned order has been passed without issuing any show-cause notice and without furnishing of the report submitted by the Inspector, Hindu Religious and Charitable Endowment Department, Pollachi, which appears to be the basis for the impugned order. Further, learned counsel for the petitioner referred to the proceedings of the Sub Collector, Pollachi, dated 22.03.2008, wherein, possession of several temple properties was restored based on the representation given by the petitioner dated 30.06.2004. Further, it is submitted that the Fit Person has also addressed a letter to the petitioner on 06.06.2013 describing him as the Trustee. Therefore, it is submitted that the impugned order is illegal.

5. The learned counsel for the second respondent submitted that the temple is an ancient temple and properties were dedicated to maintain the temple and since there was no responsible person to look after the affairs of the temple and the properties stand in the name of certain individual and hence, inspection was made and a report was submitted on 26.04.2004, on the basis of which, the second respondent was appointed as Fit Person to the Temple with the specific instruction to take action to change the patta of the temple properties into the name of the temple.

6. Further, it is submitted by the learned counsel for the second respondent that in the proceedings conducted before the Sub Collector, Pollachi, the earlier Fit Persons participated and the same is well within the knowledge of the writ petitioner. It is also submitted that aggrieved over the order passed by the Sub Collector, Pollachi, the affected persons filed W.P.Nos.35351/2012 and 35352/2013 and the second respondent in his official capacity as Fit Person participated in the proceedings. Further, it is submitted

that the appointment of Fit Person is only for the benefit of the temple and the petitioner failed to handover the charge and therefore, the Fit Person assumed charge of the temple on 14.06.2013.

7. From the facts placed before this Court by the second respondent, it is seen that the Fit Person was appointed by the first respondent in the year 2004 and he has been in-charge of the affairs of the temple pursuant to the order dated 26.04.2004. Therefore, the petitioner cannot plead ignorance of the appointment of the Fit Person. Furthermore, the Fit Person participated in the proceedings before the Sub-Collector during 2008.

8. In such circumstances, the question of interfering with the impugned order does not arise. However, it is to be noted that while passing the impugned order dated 24.08.2010, there appears to have been a further report submitted by the Inspector of Hindu Religious and Endowment Department and based on such report, action has been initiated. The petitioner apprehends that those reports are adverse to his interest and therefore, the Fit Person has been appointed. In any event, the appointment of Fit Persons is only as a temporary measure. This Court is of the view that an opportunity should have been afforded to the Trustees to explain as to what the allegations against them.

9. Further, at this stage, this Court is not inclined to set aside the impugned order. Therefore, the petitioner can be directed to treat the impugned proceedings as show-cause notice and an opportunity should be afforded to the petitioner to put forth his explanation. Accordingly, there will be a direction to the first respondent to furnish the copy of the report of the Inspector, HR & CE, Pollachi, dated 16.08.2010 to the petitioner and afford an opportunity to the petitioner to submit his objections by way of representation, which shall be considered by the first respondent to pass an appropriate order on merits in accordance with law. The above direction shall be complied with within a period of three months from the date of receipt of a copy of this order.

10. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

rep by its Assistant Engineer,

Sd/-

Assistant Registrar

Dated:16.3.15

True Copy

Sub Assistant Registrar

To

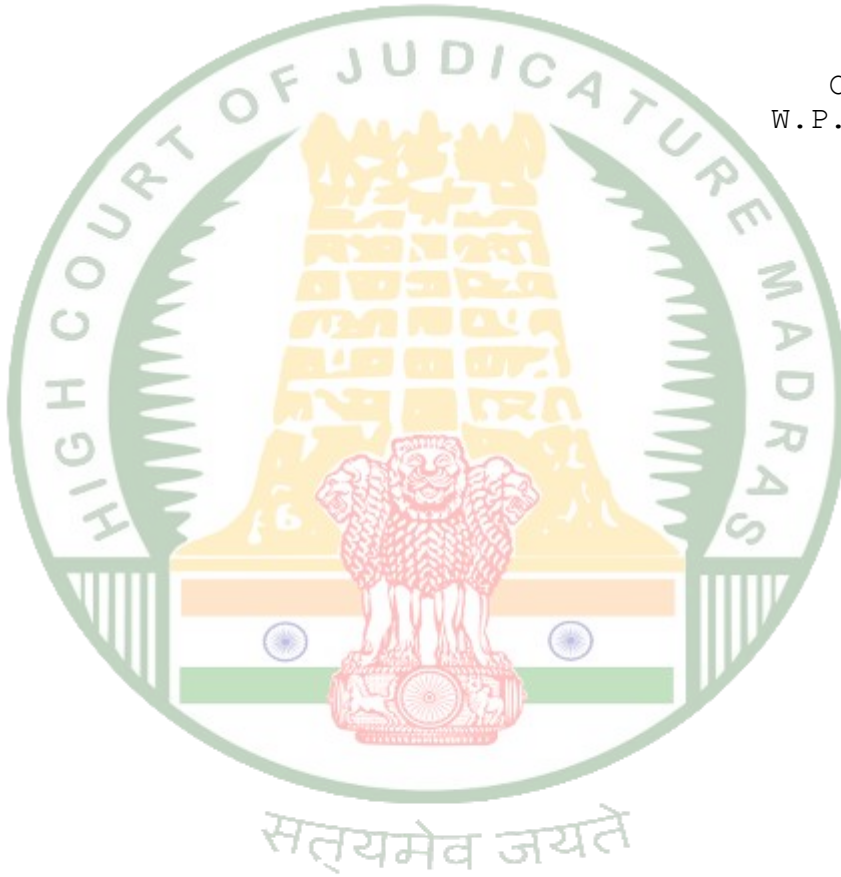
The Assistant Commissioner,
Hindu Religious and Endowment Board,
Coimbatore District.

+1 cc to Mr.K.chozan, Advocate,SR.12785.

+1 cc to Mr.R.Rajesh Vivekanandan, Advocate,SR.12875.

vsn(co)
krd 23/3

ORDER IN
W.P.NO.18342 OF 2013



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