



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2015

CORAM:

THE HONOURABLE Mr. JUSTICE D. HARI PARANTHAMAN

W.P. (MD) No. 21313 of 2015

and M.P. (MD) No. 1 of 2015

Pandiyan

... Petitioner

Vs.

The Commissioner,
Hindu Religious and Charitable Endowment Administration
Department,
Chennai.

... Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the impugned notification of the respondent in Suo Mottu Revision No. 29/2015 dated 06.11.2015 and quash the same.

For Petitioner : Mr. B. Sekar

For Respondent : Mr. V. R. Shanmuganathan, Spl. G. P.

O R D E R

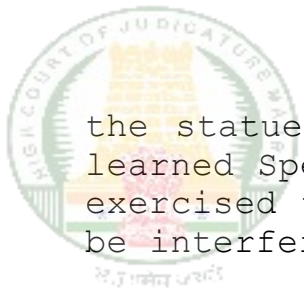
The petitioner was issued with a charge memo dated 15.12.2012 by the Executive Officer of the Arulmigu Malaimelvaithiyanathaswamy Temple at Vadakari, Periakulam, Theni District. The petitioner filed an appeal before the Appellate Authority under Section 56(1) of the Hindu Religious and Charitable Endowment Act (herein after called "the Act") questioning the aforesaid charge memo. The Appellate Authority allowed the said appeal by an order dated 19.11.2014, which was signed on 26.11.2014.

2. Whiles, exercising the power under Section 21 of the Act, the respondent issued a show cause notice on 06.11.2015 directing the petitioner to show cause as to why the order dated 19.11.2014 passed by the Joint Commissioner of Hindu Religious and Charitable Endowment shall not be set aside. Now the petitioner has filed this Writ petition questioning the aforesaid show cause notice issued by the respondent.

3. Heard both sides.

4. The learned counsel for the petitioner has vehemently contended that the respondent cannot exercise the power under Section 21 of the Act after a period of 3 months from the date of passing of the order by the Joint Commissioner Hindu Religious and Charitable Endowment Department. Hence, the order of the respondent is without jurisdiction.

5. On the other hand, the learned Special Government Pleader appearing for the respondent has submitted that there is no bar under Section 21 of the Act to exercise the suo motu power under Section 21 of the Act. According to him, when the power is exercised suo motu by the Revisional Authority,



the statute does not prescribe any limitation. In any event, the learned Special Government Pleader has submitted that the power is exercised within a reasonable time and therefore, the same cannot be interfered with.

6. I have considered the submissions made on either side.

7. It is useful to extract Section 21(1) of the Act, which is as under -

"21(1) The Commissioner may call for and examine power of the record of any Deputy or Assistant Commissioner, or of any trustee of a religious institution other than a math or a specific endowment attached to a math in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act, or in respect of which an application for revision has been preferred under Section 21-A to the Deputy Commissioner and is pending disposal by him), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein."

8. As rightly contended by the learned Special Government Pleader appearing for the respondent that Section 21(7) of the Act, prescribes limitation in the matter of preferring revision by the affected person within a period of 3 months. When the Commissioner has exercised the power under Section 21(1), suo motu, there is no limitation prescribed in the statute. Therefore, I am of the view that the show cause notice issued suo motu by the Commissioner is not hit by the limitation. Further, as rightly pointed out by the learned Special Government Pleader though no period is prescribed in the statutes, the Revisional Authority has exercised his power within a reasonable time and the same cannot be said as belated.

9. In the aforesaid reasons, this Writ petition fails and the same is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub-Assistant Registrar

To
The Commissioner,
Hindu Religious and Charitable Endowment Administration
Department, Chennai.

nbj

RL/2C/SKS/RR/17/12/2015

W.P. (MD) No. 21313 of 2015

30.11.2015