

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.21401 of 2016

WMP.No.18317 of 2016

Kadambadiamman Temple
Represented by its Hereditary Trustee
M.K.Kamalakannan ... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by its Secretary
Tourism, Culture and Religious
Endowments Department,
Fot St.George,
Chennai.
 - 2.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam,
Chennai-34.
 - 3.Thirumathi K.Maheshwari
 - 4.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam,
Chennai-34.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents from taking any action pursuant to the order of the first respondent in Ni.Mu.No.51021/2015E 1 dated 20.01.2016, pending disposal of the Appeal filed by the first respondent under Section 72(6) r/w. 114 of Tamil Nadu Hindu Religious and Charitable Endowments Act.

For Petitioner : Mr.C.Vigneswaran

For Respondents : Mr.R.Govindasamy,
Special Government Pleader for R1

Mrs.Rita Chandrasekar,
Special Govt. Pleader (HR&CE)
for R2 and R4

O R D E R

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

2. The petitioner, who claims to be the Hereditary Trustee of Kadambiamman Temple, Meenakshi Amman Nagar, Alwarthirunagar, Chennai-87, had approached the first respondent in the form of appeal dated 28.01.2016, challenging the proceedings of the second respondent dated 20.01.2016, in and by which it has been averred among other things that due to the interest of the administration and as per the recommendation of the Assistant Commissioner, HR&CE Department, Chennai-34, the petitioner temple is included in the list of small temples in Page No.11, Sl.No.20 of the concerned Register and further recommendation has been made to appoint a Fit Person till the Committee of Trustees is constituted.

3. The learned counsel appearing for the petitioner would submit that the second respondent is acting as Secretary of the HR&CE Department and therefore, he cannot entertain appeal against his own order and prays for appropriate orders.

4. Per contra, Mrs.Rita Chandrasekar, learned Special Government Pleader (HR&CE), on instructions, would submit that the impugned proceedings of the second respondent cannot be construed as final order and it is merely an intimation that the temple in question is included in the list of small temples and there is also further development in the form of an order dated 09.02.2016 passed by the Assistant Commissioner of HR&CE Department, appointing a Fit Person and the remedy open to the petitioner, if any, is to challenge the said order by invoking Section 21 of the HR&CE Act. It is the submission of the learned Special Government Pleader (HR&CE) that insofar as the appeal filed by the petitioner is concerned, the appeal papers were returned by the first respondent and it is for the petitioner to take return of the same for compliance.

5. The learned counsel appearing for the petitioner, in response to the said submission, would submit that the order of the Assistant Commissioner, HR&CE Department dated 09.02.2016 appointing the Fit Person is yet to be communicated to him and insofar as the return of appeal papers is concerned, he has not received the same from the office of the first respondent.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. This Court, in the light of the stand taken by the respondents 1, 2 and 4 coupled with the submission of the learned counsel appearing for the petitioner that the petitioner is yet to receive the order appointing the Fit Person, directs the Assistant Commissioner, HR&CE, Chennai-34 to communicate the order in Na.Ka.No.4927/2015/A1 dated 09.02.2016 forthwith to the petitioner and the petitioner, on receipt of the same, is at liberty to challenge the same in accordance with law. In the light of the submission made by the learned Special Government Pleader (HR&CE), on instructions, that the appeal papers submitted by the petitioner have been returned, the petitioner is also at liberty to collect the same from the office of the first respondent and represent the same after complying with the defects and if the papers are otherwise in order, the first respondent shall process and entertain the appeal. It is also brought to the knowledge of this Court by the learned Special Government Pleader (HR&CE) that the present Commissioner, HR&CE Department, Chennai is retiring shortly on 30.06.2016 and thereafter, posting orders will be issued for appointing the Commissioner, HR&CE, Chennai and Secretary, HR&CE Department, Government of Tamil Nadu and the said submission is also placed on record.

8. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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-s/d-

Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

jvm

To

1.Secretary,

The Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Fot St.George, Chennai.

2.The Commissioner,

Hindu Religious and Charitable Endowments,
Nungambakkam,
Chennai-34.

3.The Joint Commissioner,

Hindu Religious and Charitable Endowments,
Nungambakkam,
Chennai-34.

+1 cc to Government pleader sr.35191

+1 cc to Mr.C.Vigneswaran Advocate sr.34988

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