IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. Nos.104 and 105 of 2016 and
C.M.P. Nos.1289 and 1290 of 2016

K. Neelamega Bhattachariar
Sthanikar/Archakar
Arulmigu Devanathaswamy Temple
Thiruvandipuram
No.1/78, Riverside Street
Thiruvandipuram
Cuddalore 607 401 Appellant in W.A. No.104 of 2016

1 N. Narashima Bhattachariar

2 N. Venkatakrishnan Appellants in W.A. No.105 of 2016

Vs.

1 The Commissioner
Hindu Religious & Charitable
Endowments Department
Chennai 600 034

2 The Assistant Commissioner/Fit Person
Hindu Religious & Charitable Endowments Department
Arulmigu Devanathaswamy Temple
Thiruvandipuram
Cuddalore District Respondents in W.A. No.104 of 2016

1 The Assistant Commissioner
Hindu Religious & Charitable Endowments Department
Thiruvanthipuram Arulmigu Devanathaswamy Temple
Thiruvanthipuram
Cuddalore Taluk, Cuddalore District

2 The Executive Officer
Thiruvanthipuram Arulmigu Devanathaswamy Temple
Thiruvanthipuram
Cuddalore Taluk Respondents in W.A. No.105 of 2016

Writ Appeals preferred under Clause 15 of the Letters Patent challenging the common order dated 14.10.2015 passed in W.P. Nos.15162 and 27533 of 2014 respectively. Writ petition filed U/A.226 of the constitution of India i) praying to issue a writ of certiorarified Mandamus to call for entire records pertainng to issuance of the order dated 28.05.2014 passed by the 2nd respondent herein and quash the same and forbear the respondents not to interfere with functioning of the petitioner as Sthanica - Archaka in Sri Devanatha Swamy Temple Thiruvendipuram Cuddalroe District;

ii) Prayer in WP.27533/14: Writ petition filed under Artical 226 of the constitution of India to issue a writ of Mandamus forbearing the respondents herein from interfering with the rights and duties of the petitioners herein as hereditary Sthanikas cum archaka of Arulmigu Devathanswamy temple of Thiruvanthipuram Cuddalore Taluk

For appellants in both the appeals : Mr. T.R. Rajagopalan, Sr. Counsel for M/s. D. Ravichander, P. Saritha and P. Dinesh Kumar

For respondents in both the appeals : Mr. P. Sanjay Gandhi Standing Counsel - H.R. & C.E.

COMMON JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P. Sanjay Gandhi, learned Standing Counsel, accepts notice for the respondents in both the intra-Court appeals. With the consent of the learned counsel for the parties, the matters are taken up for final disposal, at the admission stage itself.

2 These intra-Court appeals are directed against the common order dated 14 October 2015 rendered by the learned Single Judge in W.P.Nos.15162 and 27533 of 2014 respectively. Inasmuch as the issues involved in both the intra-Court appeals is one and the same, they are considered and decided by this common judgment.

3 For the sake of brevity, clarity and convenience, the parties are referred to as per their rank in these intra-Court appeals.

4 While the appellant in W.A.104 of 2016, claiming to be a Sthanikar-cum-Archaka of Arulmigu Devanathaswamy Temple at Thriuvanthipuram, Cuddalore, filed the writ petition being W.P. No.15162 of 2014, calling in question, the justifiability of the order dated 28 May 2014, passed by the Assistant Commissioner/Fit Person (for short "the Fit Person") in and by which, he was relieved from the service of the temple, the appellants in W.A. No.105 of 2016 filed the writ petition being W.P. No.27533 of 2014, seeking a writ of mandamus forbearing the respondents from interfering with their rights and duties as Hereditary Sthanikas-cum-Archakas of the same temple.

5 Regard being had to the commonality of the issues involved in the writ petitions, the learned Single Judge considered both the writ petitions together and disposed of the same by a common order dated 14 October 2015, which is sought to be impugned in the instant intra-Court appeals.

6 The Fit Person, by proceedings dated 28 May 2014, held as under:

> "Therefore, as per the Rules and Regulations and on the basis of the judgments of the Courts, Thiru K. Neelamegha Bhattachariar, who was working as Priest in this temple is an employee. The Fit Person is within its jurisdiction to pass orders giving him retirement as per the Rules and Regulations. The Employees' Service Regulations, 1964, is applicable to him and is decided accordingly. The individual, who has been working even after the age of retirement, in view of having attained the age of superannuation, pursuant to the Notice cited in the 2nd reference, is relieved from the service of this temple and final orders are passed accordingly. The aforesaid individual, apart from the items, which was in his custody and entrusted to the temple administration, is directed to hand over the other responsibility immediately to the Executive Officer of this temple."

Pursuant to the aforesaid order passed by the Fit Person, the appellant in W.A. No.104 of 2016 was relieved from the service of the temple.

7 The learned Single Judge, taking note of the provisions of Section 63(e) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for short "the Act") disposed of the writ petitions, reserving liberty to the appellants to exhaust the remedy available therein, within a period of four weeks. Thus, these intra-Court appeals by the writ petitioners.

8 The learned Senior Counsel appearing for the appellants would contend that the appellants have obtained judicial mandate in several orders rendered by competent Civil Courts. Thus, there is no necessity to establish their entitlement to any honour, emolument or perquisite, as provided under Section 63 of the Act. It is further contended that Section 63(e) of the Act is not an appeal provision, wherein, an appeal against the order passed by the Fit Person is maintainable.

9 Per contra, the learned Standing Counsel for the respondent-Department would contend that the Joint Commissioner, H.R. & C.E. is competent to decide all the disputes and matters qua appointment of a Trustee or an employee in religious institutions, including the temple. If the appellants make a representation to the Joint Commissioner, the said authority, exercising his power under Section 63 of the Act, may examine the entire disputes and take an appropriate decision in accordance with law. Thus, the common order rendered by the learned Single Judge warrants no interference.

10 We have examined the entire case from all angles and considered the submissions advanced by the learned counsel on either side.

11 Section 63 of the Act contemplates enquiry into the disputes involved in relation to holding of office as Hereditary Trustee and other incidental matters. The appellants are claiming Priesthood on the basis of their hereditary rights. According to the appellants, they cannot be governed under the provisions of any law, wherein, an employee is relieved from service on reaching the age of superannuation.

12 Be that as it may, since the Joint Commissioner is competent to examine the entire disputes, we are not inclined to delve into the merits of the case, at this stage, as the facts are disputed by all the parties.

13 In such view of the matter, we reserve liberty to the appellants to make a representation to the concerned Joint Commissioner, within a period of one week from the date of receipt of a copy of this order, who, in turn, is directed to examine the matter in accordance with law, after notice to all the concerned parties and take a decision on all disputed issues raised by the appellants within a period of four weeks thereafter. We make it clear that the adjudication by the Joint Commissioner shall not be influenced by any of the observations made by the learned Single Judge or by this Bench in this common judgment. In the fact situation of the case, status quo as obtained today, shall be maintained till the disposal of the

appellants' representations by the Joint Commissioner, as observed hereinabove.

The intra-Court appeals stand disposed of with the above directions and observations. Costs made easy. Connected Civil Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Commissioner
Hindu Religious & Charitable Endowments Department
Chennai 600 034

2 The Assistant Commissioner/Fit Person
Hindu Religious & Charitable Endowments Department
Thiruvanthipuram Arulmigu Devanathaswamy Temple
Thiruvanthipuram
Cuddalore Taluk, Cuddalore District

2 The Executive Officer
Thiruvanthipuram Arulmigu Devanathaswamy Temple
Thiruvanthipuram
Cuddalore Taluk

+ 1 cc to Government Pleader Sr.6440

W.A. Nos.104 and 105 of 2016

SCD(CO)
Eu 12.02.16