

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.30125/2016 & WMP.No.26095/2016

1.K.S.Ramalingam

2.Sri Amman Pavathal Arakkattalai

Door no.4/19, Mettukalam

Majra Kovilpudur, Vallipuram Village

Erode Taluk and District, rep.by its

President Mr.K.R.Selvakumar

... Petitioners

Vs.

1.The Assistant Commissioner

Hindu Religious & Charitable

Endowments Department,

Erode-1.

2.The Executive Officer

Arulmigu Varadharaja Perumal &

Allied temples, Vengambur, Erode

Taluk & District, as Fit Person of

Arulmighu Sri Varadharaja Perumal

Thirukkcoil, V.Karukkampalayam

Vallipuram, Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records relating to the proceedings of the 1st respondent dated 13.06.2016 made in Na.Ka.No.4668/2015-2/A3 and quash the same.

For Petitioners: Mr.T.S.Vijaya Raghavan

For RR 1 & 2 : Mr.M.Maharaja, Spl.GP [HR&CE]

ORDER

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

2 The petitioner would state that the presiding Deities of the following temples, viz.,

[a]Arulmigu Varadharaja Perumal Temple ; [b] Arulmigu Ponkali Amman Temple ; [c] Arulmigu Mariamman Temple ; [d] Arulmigu Bagavathi Amman Temple and [e] Arulmigu Pattan Pillaiyar Temple, situate at V.Karukkampalayam Village, Vallipuram, Sivagiri Via, Kodumudi Taluk, Erode District, are worshipped by a group of families belonging to Kongu Vellala Community who are residing in and around the locality and the petitioners also claims that they belong to the said community and also the worshipers of the above said temples and as such, they are the persons interested in the affairs of the temples as defined under section 6[15] of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 [in short "HR&CE Act"] and further claims that the 1st petitioner is also a Trustee of the 2nd petitioner / Trust, which is presently managing the above said temples. There was a rival claim which resulted in filing of a suit in OS.No.6/1998 on the file of the Court of the District Munsif, Kodumudi and the said suit came to be dismissed on 25.01.2002. The grievance expressed by the petitioners is that the 1st respondent, in a purported exercise of the power under section 49[1] of the HR&CE Act, has appointed the Executive Officer of Arulmighu Magudeeswarar and Veeranarayana Perumal Temple as the Fit Person of the above said temples, by passing a non-speaking order and it was put to challenge in WP.No.21198/2016 and during the pendency of the said writ petition, the present impugned order came to be passed and therefore, the said writ petition was dismissed as withdrawn on 04.07.2016.

3 The learned counsel for the petitioners would submit that since section 49[1] of the HR&CE Act does not exclude the applicability of the principles of natural justice, in all fairness, the 1st respondent ought to have put the petitioner on notice before passing the impugned order and the said official has not done so. The learned counsel also drawn the attention of this Court to the order dated 19.03.2015 made in WP.No.365/2014 and prays for quashment of the impugned order.

4 Per contra, Mr.M.Maharaja, learned Special Government Pleader [HR&CE] who accepts notice on behalf of the respondents would submit that the 1st respondent, after taking into consideration all the relevant facts and circumstances, has though it fit to appoint a Fit Person in the interest and welfare of the temples and prays for dismissal of the writ petition.

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

6 A Single Bench of this Court, in the above cited order, has held that "the order by the Fit Person should be a speaking order and disclose reasons as to why the authority, viz., the Assistant Commissioner, was of the opinion that the affairs of the temple were not conducted in accordance with the provisions of the Act and there was a need for an immediate appointment of a Fit Person" and also placed reliance upon the judgment of this Court reported in 1990 WLR 163 [S.S.Chinnasamy Gounder Vs. The Assistant Commissioner, HR&CE].

7 A perusal of the impugned order would disclose that the petitioners were not put on notice and no tenable reasons have been assigned as to the appointment of the Fit Person. In the light of the above cited order, relied on by the learned counsel for the petitioners, this Court is of the view that the impugned order warrants interference and the matter is to be remanded to the 1st respondent for fresh consideration and adjudication.

8 In the result, the writ petition is partly allowed and the impugned order passed by the 1st respondent dated 13.06.2016 made in Na.Ka.No.4668/2015-2/A3 is set aside and the matter is once again remanded to the 1st respondent, who shall issue notice containing reasons for appointment of the Fit Person to the petitioners within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, it is open to the petitioners to submit their response along with the relevant documents within a further period of two weeks thereafter and the 1st respondent, on receipt of the response/reply from the petitioners, shall dispose of the said response/reply from the petitioners in accordance with law within a further period of six weeks from the date of receipt of such response/reply and communicate the decision taken to the petitioners. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner
Hindu Religious & Charitable
Endowments Department,
Erode-1.

2.The Executive Officer
Arulmigu Varadharaja Perumal &
Allied temples, Vengambur, Erode
Taluk & District, as Fit Person of
Arulmighu Sri Varadharaja Perumal
Thirukkoil, V.Karukkampalayam
Vallipuram, Erode District.

+1cc to Mr.T.S.Vijayaraghavan, Advocate Sr.49093

WP.No.30125/2016

gr[col]

srg 16/09/2016



WEB COPY