

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.10.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.37053 of 2016 and
WMP No.31855 of 2016

Shammer S.Shah .. Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 34
2. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Vellore - 9
3. The Executive Officer,
Sri Arulmighu Ekambareswarar Temple,
Kancheepuram - 631 502 .. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus by calling for the entire records relating to the impugned proceedings of the 2nd respondent initiated pursuance to the notice dated 05.10.2016 made in Na.Ka.No.7081/2016/E1 and quash the same and consequently direct the 1st respondent to dispose of the appeal petition represented in the month of September, 2016 vide N.Dis.No.49105 / 2016 within a time frame.

For Petitioner : Ms.R.Radhika

For Respondents: Mr.M.Maharaja for R1 and R2
Special Government Pleader
Mr.P.V.Arulphazam for R3

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus by calling for the entire records relating to the impugned proceedings of the 2nd respondent initiated pursuance to the notice dated 05.10.2016 made in Na.Ka.No.7081/2016/E1 and quash the same and consequently direct the 1st respondent to dispose of the appeal petition represented in the month of September, 2016 vide N.Dis.No.49105 / 2016 within a time frame.

2. The learned counsel for the petitioner would submit that the petitioner has appeared before the authority for enquiry on 21.10.2016 and the same was adjourned to 08.11.2016 and according to him, the appeal is pending as against the original order of fixation. The learned counsel for the petitioner fairly submitted that though in the earlier Writ Petition, namely, in W.P.No.10019 of 2016, this Court by order dated 17.03.2016, directed the petitioner to deposit 50% of the entire arrears amount with the 1st respondent within a period of eight weeks, he has not paid the same. However, the petitioner has made some calculation with regard to the entire arrears and he has paid 50% of the said sum and therefore, the learned counsel for the petitioner submits that there is no necessity for the petitioner to appear for the enquiry.

3. The learned counsel appearing on behalf of the respondents submitted that the order in W.P.No.10019 of 2016 dated 17.03.2016 passed by this Court is very clear indicating that the petitioner has to pay 50% of entire arrears amount. But the petitioner has not complied with the order as fixed by the authority.

4. It is brought to the notice of this Court by the learned counsel for the respondents that if the petitioner has not complied with the order passed by this Court, the Authority has right to continue with the proceedings and with regard to the deposit of 50% of the entire arrears amount, the petitioner himself has admitted that he did not comply with the earlier order and what was paid by the petitioner is only 50% of the arrears amount, which was calculated by him on his own.

5. Heard the learned counsel for the petitioner and the learned counsels appearing on behalf of the respondents and perused the materials placed before this Court.

6. Considering the rival submissions made on both sides, this Court is of the considered view that the 2nd respondent has rightly called the petitioner to appear for enquiry by way of the impugned notice dated 05.10.2016. Since the order under

challenge is the said impugned notice is also a show cause notice, it is always open to the petitioner to raise all his grievance before the said authority. Hence, the prayer sought for in the writ petition cannot be granted and the same is dismissed. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssd

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 34
2. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Vellore - 9
3. The Executive Officer,
Sri Arulmighu Ekambareswarar Temple,
Kancheepuram - 631 502

- 1 cc to Mr.V. Srikanth, Advocate, Sr. 61509
1 cc to Arulphazham nee, Advocate, Sr. 609901
1 cc to Government Pleader, Sr. 60992

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