



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 30.06.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.11681 of 2016

and

WMP (MD) No.8962 of 2016

V.Rengaraj

..Petitioner

Vs

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Kovil Complex,
Tiruchirappalli.

2.The Executive Officer,
(incharge, The Executive Officer,
Pudukkottai Temples),
Arulmigu Vellaimuneeswarar Thirukovil,
Gantharvakottai,
Pudukkottai District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the Respondents from terminating the petitioner from working in the capacity of poojari at Arulmigu Vellaimuneeswarar Thirukovil, situated in Ganatharvakottai Taluk, Pudukkottai District, without following the due process of law.

For Petitioner :Mr.G.Sridharan

For Respondent-1 :Mr.V.Muruganandam
Addl.Govt.Pleader

For Respondent-2 :Mr.G.Madhavan

ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

<https://hcservices.courts.gov.in/hcservices> 3.No consent is filed on behalf of the Respondents 1 and 2.



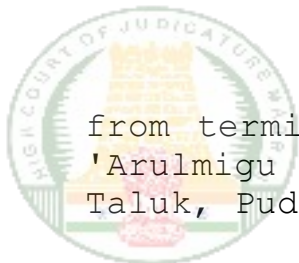
4. The Learned Counsel for the Petitioner submits that the Petitioner is a hereditary Poojari of the 'Arulmigu Vellaimuneeswarar Temple' and originally it was owned by the Zameen of Pudukkottai Samasthanam. After amalgamation of the Zameen with the Pudukkottai State, the said Temple is under the administrative control of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

5. The specific case of the Petitioner is that after demise of his father Vellaisamy, his name was entered in the year 1983 in the Poojari record maintained by the Second Respondent / Temple and from that year onwards, he is performing Poojas in the said Temple to the satisfaction of the entire Village. It is also projected on the side of the Petitioner that some vested interests in the Village, had sent false and incorrect particulars about the Petitioner's performance of Poojariship, to the Respondents and infact, the Panchayat President of Gantharvakottai Taluk and other important persons of the said Taluk have sent a detailed representation, dated 19.01.2016, to the Commissioner, HR & CE Department and also to the Respondents informing them that the alleged complaint given by the vested interests were not true.

6. The Learned Counsel for the Petitioner brings it to the notice of this Court that in December 2015, the Second Respondent had directed the Petitioner to produce certificates in support of proof of his age. Accordingly, the Petitioner had submitted 'Aadhar Card' and the Age and Identification Certificate issued by the Medical Officer, Government Hospital, Gantharvakottai Taluk, Pudukkottai District, wherein the age of the Petitioner was mentioned as 57 years old.

7. At this stage, the Learned Counsel for the Petitioner proceeds to take a stand that on 25.06.2016, the Second Respondent had informed the Petitioner that he shall not do the Poojas from 01.07.2016 onwards and had also handed over a communication of the First Respondent, dated 19.12.2015. As a matter of fact, in the said communication, it was mentioned that the Petitioner had completed 70 years of age and not in a position to perform Poojas and to initiate appropriate proceedings to appoint a fit person, as Poojari, after obtaining orders from the Commissioner of HR&CE Department.

8. The real grievance of the Petitioner is that that the First Respondent / Joint Commissioner, HR&CE Department, Tiruchirapalli, is that the first Respondent without taking note of the Petitioner's age and identification certificate obtained from the Medical Officer, Government Hospital and the 'Aadar Card' to show that he is 57 years old, is taking steps to terminate him without following due process of Law. Therefore, the Petitioner is constrained to file the present Writ Petition, seeking a direction from this Court in restraining the Respondents



from terminating him from working in the capacity of Poojari at 'Arulmigu Vellaimuneeswarar Temple' situated at Gantharvakottai Taluk, Pudukkottai District, without following due process of Law.

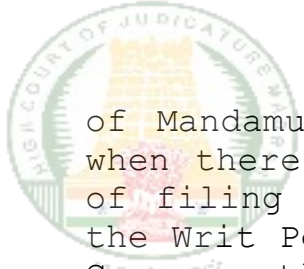
9. At this stage, the Learned Government Advocate appearing for the First Respondent submits that the communication, dated 19.12.2015 of the First Respondent was only to the effect that in the interest of Temple, frequent receipt of complaints were to be avoided etc. Also in the said communication, an advise was issued to the effect that the Temple Poojari Rengaraj, aged 70 was not in a position to work and as such, for appointment of another fit person, after obtaining permission from the Commissioner, the Executive Officer is to take further proceedings in the subject matter in issue. In effect, the submission of the Learned Counsel for the First Respondent is that the communication, dated 19.12.2015 of the Joint Commissioner of HR&CE, Tiruchirapalli, was only recommendary letter and it is not a punitive one. Therefore, an emphatic contention of the Learned Counsel for the First Respondent that the Writ Petition filed by the Petitioner is not maintainable per se because of the reason that it has no cause of action whatsoever.

10. It is submission of the Learned Counsel for the Second Respondent / Executive Officer of the 'Arulmigu Vellaimuneeswarar Temple', Gantharvakottai Taluk, Pudukkottai District that Notice will be issued by the Second Respondent to the Petitioner in regard to his termination, as per the recommendation of the First Respondent made in the year 2015.

11. The said submission of the Learned Counsel for Second Respondent is recorded by this Court.

12. In the instant case on hand, according to the Petitioner, he is 57 years of age and according to him, he had furnished the age and identification certificate obtained from the Medical Officer, Government Hospital and also furnished the 'Aadar Card' to the Respondents to show that his age is 57 years, as early as on 17.12.2015. As such, the categorical case of the Petitioner is that his age of 70 years, as projected by the Respondents, is of insignificant value in the absence of any documentary evidence. In any event, the Petitioner apprehends that he will be terminated as Poojari from the Temple.

13. Considering the fact that, as on date of filing of the Writ Petition, there is no termination order yet in view of the fact that the Petitioner apprehends that he will be terminated by the Respondents from his working as Poojari of 'Arulmigu Vellaimuneeswarar Temple' and also this Court taking note of the fact that on behalf of the Second Respondent this Court was in force, notice would be issued to the Petitioner, prayer to the issuance of termination order, at this stage, this Court comes to a resultant conclusion that a Court of Law cannot issue a Writ



of Mandamus based on any apprehension or surmises and that too, when there is absence of cause of action, especially, on the date of filing of the Writ Petition. As such, this Court holds that the Writ Petition filed by the Writ Petitioner is a premature one. Consequently, the Writ Petition fails.

14. In the result, the Writ Petition is dismissed leaving the parties to bear their own costs. Before parting with the case, this Court makes it abundantly clear that before issuance of any termination order to the Petitioner, based on the fact / allegation that he had completed 70 years of age and therefore, he is unable to perform his duty, as Poojari, this Court directs the Second Respondent at first to come to a definite conclusion based on necessary records / documents either produced by the Petitioner or by the Authorities concerned to show what exactly the age of the Petitioner is and also to find out whether the Petitioner is not in a position to discharge his duties, as Poojari because of his old age or otherwise and further directed to proceed further in the manner known to Law and in accordance with Law. Of course, after fulfilling the requisite procedures enshrined in Law for terminating the Poojari, by adhering to the provisions of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Kovil Complex,
Tiruchirappalli.

2.The Executive Officer,
(incharge, The Executive Officer,
Pudukkottai Temples),
Arulmigu Vellaimuneeswarar Thirukovil,
Gantharvakottai,
Pudukkottai District.

+1cc to M/s.G.Sridaran, Advocate SR.No.34381
+1cc to M/s.G.Mathavan, Advocate SR.No.34284
+1cc to special Government Pleader SR.No.34357

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