



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2016

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASANWrit Petition (MD) No.18491 of 2016andW.M.P(MD)Nos.13388 and 13389 of 2016

The Executive Officer,
Arulmigu Boothanayagamman Temple,
Thuvarankurichi,
Marunkapuri Taluk,
Trichy District.

... Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Marungapuri Taluk,
Marungapuri,
Trichy District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order of the 2nd respondent dated 17.09.2016 and quash the same as illegal and consequently permit the petitioner to conduct the Mandagapadi festival as part of Arulmighu Boothanayagamman Temple festival situate at Thuvarankurichi Marungapuri Taluk Trichy District scheduled to be conducted from 29.09.2016 to 06.10.2016 by following the customary practice and rights followed by the villagers from time immemorial.

For Petitioner

: Mr.R.R.Kannan

For Respondents

: Mr.K.P.Krishnadoss,
Government Advocate.**ORDER**

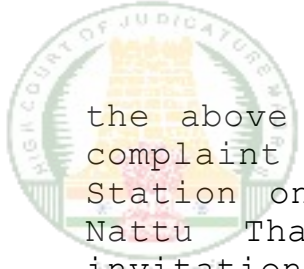
This writ petition has been filed by the Executive Officer of the Arulmigu Boothanayagamman Temple, Thuvarankurichi, Marunkapuri Taluk, Trichy District challenging the proceedings of the second respondent dated 17.09.2016.



2.The case of the petitioner in brief is as follows:-

The petitioner is the Executive Officer of the Arulmigu Boothanayagamman Temple, Thuvarangurichi, Marungapuri Taluk, Trichy District and he has conducted the temple festival in the year 2015 and this year, the temple festival has commenced on 19.09.2016. The main Mandagapadi Poojas are scheduled to be conducted from 27.09.2016 to 06.10.2016. It is stated that as per the customary rights which were adopted by the peoples belong to four Nadar namely Marungi Nadu, Thethoor Nadu, Ikkaraikosikurichi Nadu and Kanjanayakkanpatti Nadu and the 96 villagers consists of 32 Pattis who are residing in and around the above said four Nadus are worshipping the deity of Arulmigu Boothanayagamman for time immemorial by following the customary rights followed by their ancestors. The temple deity is worshipped by different community people living in and around 96 villages and 32 Pattis. It is further stated that every year in the month of Purattasi (Tamil Month) Poochorithal festival would be celebrated in the above temple by all the 96 villagers by following the customary rights and practices. This year, the Poochorithal Festival has been scheduled to be conducted from 19.09.2016 to 06.10.2016. Since, the festival has been already started on 19.09.2016, the main function of the festival will be celebrated from 27.09.2016 to 06.10.2016 and on those days Mandagapadi will be performed by different community people. Every day at the end of the Mandagapadi, Prasadam Mariayathai will be given to the concerned Nattars, Poojaris, Archakars, Maniakarars and all other deities. It is further submitted that in order to conduct this year festival in a smooth and transparent manner the Joint Commissioner of Hindu Religious and Charitable Endowments Department, Trichy has called for a meeting on 29.08.2016 at his office, the different community people have represented and other officials also participated in the meeting and taken a decision that the temple festival has to be conducted in consonance with the last year performance.

3.It is further stated that invitation for the temple festival was printed showing the name of the 'Executive Officer as well as the Marungi Nattu Thalaivar Name. This practice is followed from time immemorial. In the similar manner, this year also the invitation was printed with the name of the Executive Officer as well as the Marungi Nattu Thalaivar Name. It is further stated that at that time one A.Kannuchamy has filed a writ petition before this Court in W.P.(MD).No.17479 of 2016 to remove the name of Marungi Nattu Thalaivar in the temple festival invitation or otherwise, it will lead to law and order problem in conducting the temple festival. At the time of admission itself, this Court has directed the petitioner to withdraw the writ petition and the above writ petition has been dismissed as withdrawn on 15.09.2016. After the withdrawal of



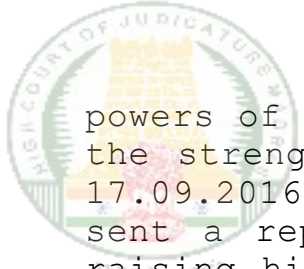
the above writ petition, the said A.Kannuchamy has preferred a complaint before the Inspector of Police, Thuvarankurichi Police Station on 17.09.2016 stating that if the name of the Marungi Nattu Thalaivar is not removed from the temple festival invitation, there will be law and order problem while conducting the temple festival. On the strength of the complaint preferred by the said A.Kannuchamy, the Tashildar, Marungapuri Taluk, Marungapuri has conducted Peace Committee Meeting on 17.09.2016 itself around 4.00 p.m. in the capacity of Executive Magistrate. The petitioner has participated in the said meeting, only the said A.Kannuchamy group as 'A' Party and Marungi Nattu Thalaivar group as 'B' Party were participated in the Peace Committee Meeting and the other community people did not participate in the meeting.

4. In the Peace Committee Meeting, it was resolved that there is no objection for printing of the name of the Marungi Nattu Thalaivar in the temple festival invitation and the Prasadam Muthal Mariyathai has to be given to the Poojari Ponnampatti Village Ayyanar Temple and thereafter usual procedures have to be followed. Usually, the Prasadam Muthal Mariyathai has to be given to the Poojari of the Arulmigu Boothanayagamman Temple situated at Thuvarangurichi. It is further stated that even though the petitioner's objected for the new right created by the Tahsildar in the peace committee meeting, without heeding to his objection, the Tahsildar, 2nd respondent herein has created hatred, chaos and confusion among the different community people. In fact, he has conducted the Peace Committee Meeting without even inviting the different community people who are celebrating the Arulmighu Boothanayagamman Temple Festival.

5. It is further stated that he has usurped the domain of the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Trichy. The Hindu Religious and Charitable Endowments Department is established for the purpose of maintenance and administration of the temples in Tamil Nadu under their control. It is further stated that since Arulmighu Boothanayagamman Temple is under the control of the Hindu Religious and Charitable Endowments Department, anybody aggrieved with the decision of the Department is entitled to approach the Joint Commissioner of Hindu Religious and Charitable Endowments Department under Section 63(e) of the Act by way of filing necessary petition. If they are not satisfied with the decision of the Joint Commissioner, the concerned party has got an appellate remedy before the Commissioner of Hindu Religious and Charitable Endowments Department under Section 69 of the Act.

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6. It is further stated that by-passing all the statutory provisions, the second respondent has usurped the

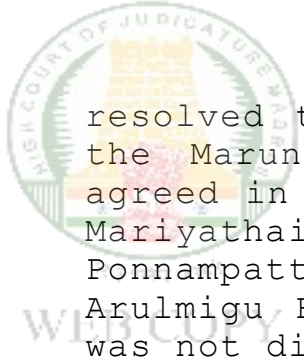


powers of the Joint Commissioner and passed the impugned order on the strength of the Peace Committee Meeting conducted by him on 17.09.2016 in the capacity of Executive Magistrate. Hence, he has sent a representation to the first respondent dated 18.09.2016 raising his objection but he has not received any reply from the first respondent. It is further stated that since Paramparai Poosarigal of Arulmighu Boothanayagamman Temple are the first person to receive the Prasadam Muthal Mariyathai in the Temple festival, they have objected to issue Prasadam Muthal Mariyathai to Poosari of the Ponnampatti Ayyanar Temple. Apart from that, there is objection from different communities with regard to the new right created in the Peace Committee Meeting held on 17.9.2016 conducted by the 2nd respondent. It is further submitted that the Hindu Religious and Charitable Endowment Department is the competent authority to decide the manner in which the temple festival is to be conducted and the rights of the person in receiving the Prasadam Muthal Mariyathai. When there is a set of hierarchy which was followed from time immemorial in conducting Arulmighu Boothanayagamman Temple festival, the second respondent has unusually created a new right to the Poosari of Ponnampatti Ayyanar Temple. In the above circumstances, the petitioner has filed this writ petition.

7.The main grievance of the petitioner is that when the temple is a public temple under the control of the Hindu Religious and Charitable Endowments Department and the festival has been conducted by following certain customs, by the impugned proceedings, the Tahsildar has created new right and usurped the power of the Hindu Religious and Charitable Endowments Department which is not permissible under law. Apart from that, the Tahsildar has no power to change the Mariyathai given during the festival and create a new right.

8.The said contention of the petitioner cannot be countenanced for the simple reason that the Tahsildar being the Executive Magistrate, whenever there is a law and order problem, the Tahsildar being the Executive Magistrate has power to conduct peace committee meeting to settle the dispute amicably between the parties. In the instant case also, there was a dispute between groups of peoples and one A.Kannusamy said to have filed a complaint before the Inspector of Police, Thuvankurichy objecting the printing of invitation in favour of one Marungi Nattu Thalaivar.

9.In the above circumstances, anticipating the law and order problem a peace committee meeting was conducted by the Tahsildar in which all rival groups were present apart from the Inspector of Police, Thuvankurichy, the petitioner, Executive Officer of the Temple, and Regional Deputy Tahsildar and Revenue Inspector and Village Administrative Officer were present. During the peace committee meeting, it was unanimously



resolved that there is no objection for printing the name of the Marungi Nattau Thalaivar in the invitation and it was agreed in the meeting for a little change in respect of Muthal Mariyathai, it will be first given to the Poojari of Ponnampatti Village Ayyanar Temple instead of priest of Arulmigu Boothanayagamman Temple and the remaining hierarchy was not disturbed. It is also resolved that the Hindu Religious and Charitable Endowments Department should conduct temple festival without any law and order problem.

10. By the above said proceedings, an amicable settlement has been arrived at between the parties to conduct festival peacefully this year. It is not correct to state that the second respondent has usurped the power of the authorities of the Hindu Religious and Charitable Endowments Department and created a new right. Apart from that if at all anybody aggrieved by the decision of the peace committee meeting, it is only the priest of Arulmigu Boothanayagamman Temple to come and challenge the same in the manner known to law. The petitioner being the party to the above said peace committee meeting and agreed for the decision arrived at in the peace committee meeting by putting his signature, now he cannot turn around to oppose the same. Apart from that the petitioner has also not proved with any evidence that there is a custom prevailing in the temple for granting Muthal Mariyathai.

11. In similar circumstances, in yet another W.P(MD) No.18207 of 2016 filed before this Court challenging the very same proceedings, this Court by an order dated 22.09.2016 dismissed the writ petition holding that by change of seniority, the petitioner was no way affected. If at all, the petitioner is aggrieved over the seniority fixed, he can only approach the civil forum and establish his rights. The peace committee meeting conducted by the second respondent is only a temporary arrangement to conduct festival peacefully without any law and order problem for this year as agreed by the parties that Muthal Mariyathai will be given to be given to the Priest of the Ponnampatti Village Ayyanar Temple, hence, at any stretch of imagination, it cannot be construed that the Tahsildar has changed the custom and created a new right between the parties.

12. In the above said circumstances, the contention raised by the petitioner cannot be countenanced. Hence, the writ petition is liable to be dismissed. No costs. Consequently, W.M.P(MD) Nos.13388 and 13389 of 2016 are closed.

Sd/-

Assistant Registrar(AS)

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To

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Marungapuri Taluk,
Marungapuri,
Trichy District.

+1 cc to M/S.R.R.KANNAN, Advocate SR.No.56141

+1 cc to Special Government Pleader SR.No.56624

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and
W.M.P (MD) Nos.13388 and 13389 of 2016
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