

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.02.2017
CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

W.P. No. 13502 of 2012
& M.P.No.1 of 2012
& M.P.No.1 of 2013

U.Jegadeesan

.. Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Administrative Department,
Coimbatore - 641 018.
2. The Executive Officer as Fit Person,
Karamadai Araganathar Temple,
Karamadai, Mettupalayam Taluk,
Coimbatore District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceterari calling for the records of 1st respondents relating to his proceedings in Se.Mu.Na.Ka.No.3931/2012/B4, dated 06.05.2012 and quash the same.

For Petitioner : M/s.R.Kannan
For Respondents : Mr.M.Maharaja (Spl.G.P.),
HR & CE

सतगमेव जयते
O R D E R

The petitioner has filed this Writ Petition with a prayer to call for the records of 1st respondent relating to his proceedings in Se.Mu.Na.Ka.No.3931/2012/B4, dated 06.05.2012 and quash the same.

2. Mr.R.Kannan, learned counsel is present on behalf of the Writ Petitioner and Mr.M.Maharaja, learned Special Government Pleader is present on behalf of both the respondents viz., the Joint Commissioner of Tamil Nadu Hindu Religious and Charitable Endowments, Administrative Department ('TNHR & CE Dept.' for brevity), Coimbatore and the Executive Officer Karamadai Araganathar Temple, Karamadai, Mettupalayam Taluk,

Coimbatore, who was appointed as a Fit Person in and by the proceedings of the Commissioner of TNHR & CE Dept.

3. By consent of the learned counsel for the Writ Petitioner as well as the counsel for the respondents, the main Writ Petition is taken up for final disposal, though Miscellaneous Petition is listed before this Court, today.

4. It is not in dispute that the Writ Petitioner is a hereditary trustee of Arulmigu Palamalai Aranganatha Temple, Naickenpalayam Village, Coimbatore District (hereinafter referred to as 'said Temple' for the sake of convenience and clarity). It is not in dispute that the said Temple is under the control and supervision of the TNHR & CE Dept. While so, on 05.05.2012, during Chitra Pournami festival a mishap occurred. In the said mishap, one person died. Besides casualty, some others suffered injury. This is the trigger point.

5. The first respondent herein, viz., the Joint Commissioner of TNHR & CE Dept., Coimbatore (hereinafter referred to as said 'JC' for brevity), issued an order dated 06.05.2012 bearing reference No.Se.Mu.Na.Ka.No.3931/2012/B4. In and by the impugned order, the said JC framed charges against the Writ Petitioner. The said JC called upon the Writ Petitioner to submit his explanation for enquiry into the charges. Considering the fact that the charges are serious in nature, the said JC in his wisdom/discretion had also placed the Writ Petitioner, the Hereditary Trustee under suspension pending enquiry, in the same order.

6. Aggrieved by this order, the Writ Petitioner filed the instant main Writ Petition calling upon this Court to quash the above said impugned order passed by the said JC.

7. Before proceeding further, it is noticed by this Court that the said JC has stated that the impugned order has been passed under Section 53 (2) of TNHRCE Act, 1959. This order of framing charges, calling upon the Writ Petitioner to submit his explanation and placing the Writ Petitioner, hereditary trustee under suspension pending enquiry, has to be passed necessarily under Section 53 (4) and not under Section 53 (2). However, it is only a question of quoting the wrong provision of law. Otherwise, there can be no dispute that the said J.C. has powers to frame charges, conduct enquiry and also place the Writ Petitioner under suspension pending enquiry. Therefore, as a power is otherwise available under the statute, this may not be a serious infirmity and this Court construes that the impugned order had been passed under Section 53(4) and not under 53(2) of TNHR & CE Act, 1959.

8. When the Writ Petition came up for admission, on 17.05.2012, this court issued Rule Nisi in the main Writ Petition and granted an interim order of status quo. The interim order of this Court says status quo as on today (i.e., as on 17.05.2012) shall be maintained.

9. The effect of the impugned order is that the Writ Petitioner can continue to function as hereditary trustee, but to my mind, there was no bar whatsoever in the enquiry being proceeded with. As of today, it is not clear as to whether the enquiry had been proceeded further or whether it was kept in abeyance in respect of deference to the proceedings by the interim order of this Court. Irrespective of whether enquiry was proceeded with or not, in the light of the order proposed to be passed in the main Writ Petition, it may not be necessary to go into that.

10. As the power of the said JC to conduct enquiry is not in dispute, on considering the fact that the the Writ Petitioner is continuing to function as hereditary trustee of the said Temple pending charges for 5 years now, by virtue of the interim order of this Court, following order is passed:

i) The first respondent in the Writ petition, viz., JC, is directed to proceed further with the enquiry, pursuant to the impugned proceedings dated 06.05.2012, bearing reference no. No.Se.Mu.Na.Ka.No.3931/2012/B4 in a manner known to law.

ii) The above enquiry shall be completed within a period of three months from the date of receipt a copy of this order.

iii) Subject to the outcome of the enquiry pursuant to the impugned order, the Writ Petitioner may be permitted to continue as hereditary trustee, if the enquiry outcome ends in his favour.

iv) If the outcome of the enquiry is not in his favour, considering the fact that he had the benefit of an interim order, it shall continue for a further period of another 30 days therefrom, for Writ Petitioner, to pursue other remedies, which may be available to him under the statute.

11. Writ Petition is disposed of with the above observations and directions. Consequently, the connected Miscellaneous Petitions are closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

pvs

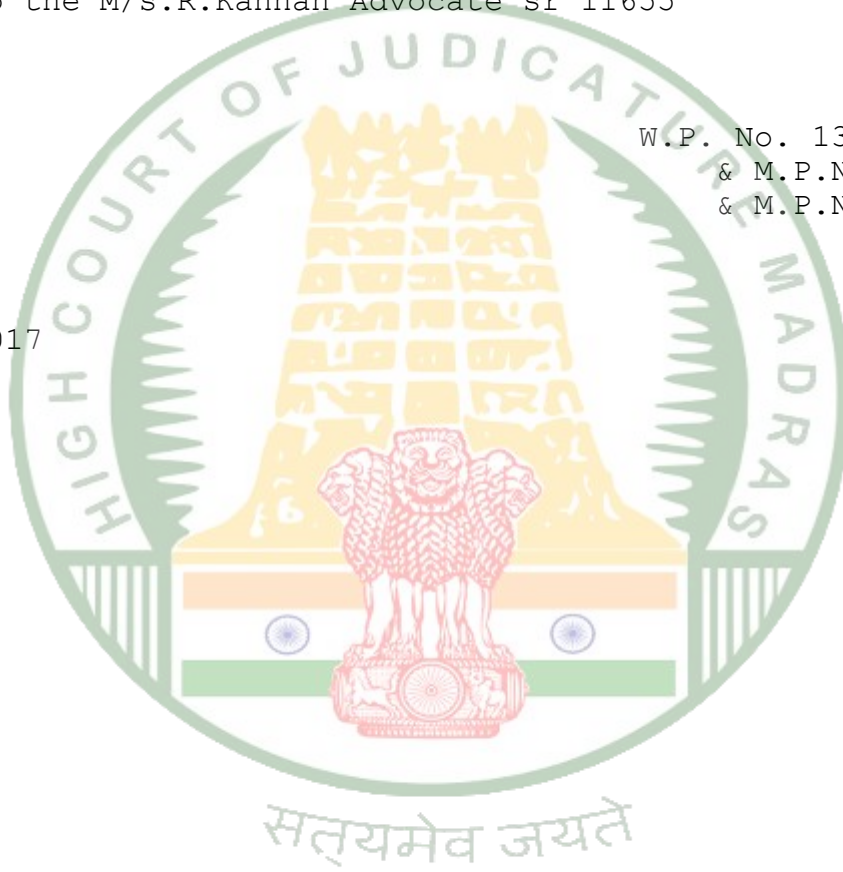
To

The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Administrative Department,
Coimbatore - 641 018.

+1 cc to the Government Pleader sr 11415
+1 cc to the M/s.R.Kannan Advocate sr 11655

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