

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.01.2017

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.34482 of 2012
and
M.P.Nos.1 and 2 of 2012

A/M. Athanooramman Podarayasamy
Arakkattalai
Rep. by its, President K.Anbarasu,
Kurukkal Palayam,
Maruthurai Village,
Kangeyan Taluk,
Thirupur District. Petitioner

... Vs ...

1. The Commissioner,
HR & CE (Admn.) Department,
Nungambakkam High Road,
Chennai - 600 034.
2. The Assistant Commissioner,
HR & CE (Admn.) Department,
Erode - 1.
3. The Executive Officer,
A/M. Subramaniaswamy Thirukoil,
Chennimalai, Perunthurai Taluk,
Erode District - 638 051. ... Respondents

Prayer :- Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, calling for records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.49712/12/L5, dated 21.11.2012 and consequential impugned communication dated 04.12.2012 issued by the third respondent and quash the same.

For Petitioner : Mr.G.Sugumaran
For Respondents : Mr.R.P.Prathap,
Government Advocate

ORDER

Challenging the impugned order dated 21.11.2012 passed by the first respondent appointing the third respondent as

Executive Officer of the petitioner's temple, the petitioner is before this Court with this writ petition.

2. According to the learned counsel for the petitioner, the petitioner's temple is managed by three sub sect. of Kongu Vellala Community namely 1) Kaadai Kulam, 2) Sengunnikulam and 3) Aandai Kulam living in five District viz., Erode, Coimbatore, Thirupur, Salem and Dindigul. The temple and its affairs has been managed by the members of the above said 3 Kulams people of that area. According to the petitioner, the above said three kulams have decided to form a trust for the development of the temple and look after its affairs and Trust was formed and it was registered on 17.06.1997 as 64/1997 under the Societies Registration Act. The temple is under the management of the office bearers of the Trust. While that being the position, the second respondent sought to interfere with the petitioner's management and without notice to the petitioner, appointed a fit person in his proceedings in Na.Ka.No.2438/2011/A3, dated 16.08.2011. The writ petitioner has challenged the aforesaid order in W.P.No.22466 of 2011 and this Court has allowed the said writ petition on 31.07.2012 by setting aside the order passed by the second respondent dated 16.08.2011. Thereafter, the third respondent had sent a letter dated 04.12.2012 along with a Xerox copy of the impugned order passed by the first respondent dated 21.11.2012. The petitioner has challenged the order dated 21.11.2012 passed by the first respondent on the ground that no show cause notice was issued to the petitioner management and before passing the impugned order, the first respondent has not followed the procedures laid down in Section 63(A) of the HR & CE Act. Therefore, there is violation of the said procedure as contemplated under the HR & CE Act. Hence, the learned counsel for the petitioner prayed that the impugned order passed by the first respondent has to be quashed and the writ petition has to be allowed. In support of his contentions, the learned counsel for the petitioner has also relied upon a decision of this Court reported in 2010(2) CTC 289 in the case of Solamuthuraja Vs. The Commissioner, HR & CE Board.

3. According to the learned Government Advocate, the petitioner has filed original application in O.A.No.17 of 2011 before the Joint Commissioner, Coimbatore, for framing the scheme under Section 64(1) of the HR & CE Act. The other original application in O.A.No.5 of 1998 filed by one Periyasamy and others under Section 64(1) of the HR & CE Act was originally dismissed. As against the said order, an appeal was filed and in the appeal, the order passed in O.A.No.5 of 1998 was set aside and the matter was remitted back to the Joint Commissioner, Coimbatore, and the said O.A.No.5 of 1998 is also now pending before the Joint Commissioner, Coimbatore. Therefore, the learned Government Advocate prayed that both original applications in O.A.Nos.5 of 1998 and 17 of 2011, which are pending for final disposal

before the Joint Commissioner, Coimbatore, may be directed to be disposed of within a time frame.

4. Considering the facts and circumstances of the case, this Court is of the view that since the original applications in O.A.Nos.5 of 1998 and 17 of 2011 are pending before the Joint Commissioner, Coimbatore, for final disposal, at this stage, the impugned order passed by the first respondent shall be kept abeyance till the disposal of the aforesaid Original Applications. The Joint Commissioner, Coimbatore, is directed to dispose the aforesaid Original Applications in O.A.Nos.5 of 1998 and 17 of 2011 as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order after providing opportunity to the parties concerned.

5. With the above observation, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

sd/
Assistant Registrar

/true copy/

Sub Assistant Registrar

To

1. The Commissioner,
HR & CE (Admn.) Department,
Nungambakkam High Road,
Chennai - 600 034.
2. The Assistant Commissioner,
HR & CE (Admn.) Department,
Erode - 1.
3. The Executive Officer,
A/M. Subramaniaswamy Thirukoil,
Chennimalai, Perunthurai Taluk,
Erode District - 638 051.
4. The Joint Commissioner
HR & CE (Admn) Department,
Coimbatore.

+1cc to Mr.G.Sugumaran SR.No.1061.

W.P.No.34482 of 2012

SV(CO)

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SV(19/02/2017)