

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.3.2017.

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.2454 of 2012

and

M.P.Nos.1 and 2 2012

J.Chakravarthi

Petitioner

vs.

1. The Commissioner,
Hindu Religious & Charitable
Endowments Department,
Nungambakkam High Road,
Nungambakkam, Chennai.
2. The Assistant Commissioner,
Hindu Religious & Charitable
Endowment Department,
Villupuram.
3. The Inspector,
Hindu Religious & Charitable
Endowment Department,
Ulundurpet.
4. The Scretary, State of Tamil Nadu
Department of Hindu charitable Institution
and Tamil Culture
Secretariat, chennai-9.

Respondents

(Suo Motu impleaded as a party respondent vide order of this court dated 13/03/2017 made in WP 2454/2012, para12)

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the respondents from interfering with the peaceful administration and management of Sri Appandainatharswamy Temple, Thirunarungundram, by the petitioner herein, except by following the procedures contemplated under the Tamilnadu Hindu Religious and Charitable Endowments Act.

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.Maharaja,
Special Government Pleader (HR&CE)

ORDER

Mr.Ravichander, learned counsel is present on behalf of the writ petitioner. Mr.Maharaja, learned Special Government Pleader is present on behalf of all the three respondents. Mr.V.Srikanth, learned counsel is present on behalf of the petitioner in M.P.No.2 of 2012, who seeks impleadment.

2. By consent of the learned counsel appearing for either side, the main writ petition itself is taken up for disposal.

3. Matter pertains to a religious institution/temple which goes by the name Sri Appandainatharswamy Temple at Thirunarungundram in Villupuram District (hereinafter referred to 'said Temple' for brevity).

4. It is the say of the writ petitioner that he is hereditarily functioning as the Trustee of the said institution and he is the fifth generation functionary in this regard.

5. On a complaint from the impleading petitioner, the respondents (hereinafter collectively referred to as 'TNHR&CE Department') started enquiring into the affairs of the said temple as the allegations, inter-alia, touch upon some financial irregularities.

6. It is admitted in the affidavit that the writ petitioner responded to the notice of the TNHR&CE Department and also participated in the enquiry.

7. Under such circumstances, the writ petition alleging that the TNHR&CE Department is constantly interfering with his functioning and administration of the Temple, has laid this writ petition, seeking a mandamus to forbear the respondents from interfering with the peaceful administration of the said temple without following the procedure contemplated under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act, 22/1959) hereinafter referred to as 'HR&CE Act' for brevity.

8. The respondents have filed a counter affidavit. A perusal of the counter affidavit reveals that it is the say of the TNHR&CE Department-respondents that the said temple, being a Jain Institution, would have the benefit of explanation to section 1(3) of the HR&CE Act and that therefore, is within the sweep of section 2 of the HR&CE Act. It is also the say of the TNHR&CE Department-respondents that the enquiries which have thus far been conducted are in the nature of preliminary enquiries for taking a decision with regard to inclusion of the

said temple as per statutory prescription under section 2 of the HR&CE Act.

9. It is not in dispute that the writ petitioner participated in the enquiry. The prayer in the writ petition is also only for a mandamus to the TNHR&CE Department to follow the procedure laid down under the HR&CE Act.

10. A common counter affidavit, on behalf of all the three respondents, has been filed. This common counter affidavit has been sworn to by the second respondent viz., the Assistant Commissioner, HR&CE Department, Villupuram. In para 12 of the counter affidavit, it has been submitted that the apprehension of the writ petitioner that the said temple will be brought under the control of the TNHR&CE Department is baseless and ill founded. In other words, the TNHR&CE would fairly say that they would follow the procedure laid down under the HR&CE Act.

11. Therefore, this writ petition is disposed of with the following directions:

a) Respondents shall continue with the enquiry initiated thus far and take a decision regarding inclusion of the Temple as per statutory prescription under section 2 of the HR&CE Act as expeditiously as possible.

b) Until such a decision regarding inclusion of the Temple as per statutory prescription under section 2 of the HR&CE Act, one way or the other, the writ petitioner shall co-operate with the TNHR&CE Department, inter alia, by furnishing all the records and participating in enquiries.

c) The above process shall be completed by the respondents within a period of four months from the date of receipt of a copy of this order.

d) Until the procedure is completed and a decision is taken, one way or the other, the writ petitioner, who is in administration of the said temple, shall not alienate any of the assets, movable or immovable.

e) In case of any exigencies or any major festival or any major expenses to be incurred, other than routine poojas in the Temple, the writ petitioner shall do so only after informing the TNHR&CE Department and shall carry out such exercises alongwith the jurisdictional Inspector of the TNHR&CE Department.

12. It is noticed that the notification power under Section 2 of the HR&CE Act has to be exercised by the Government. Therefore, I, suo motu, implead State of Tamil Nadu represented by its Secretary, Department of Hindu Charitable Institution and Tamil Culture as party respondent. Mr. Maharaja, learned Special Government Pleader accepts notice. Memo of parties has to be amended accordingly.

13. The writ petition is disposed of with the above observations/directions.

14. In the light of the final order passed in the main writ petition, the impleading petition is closed as unnecessary. The connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious & Charitable
Endowments Department,
Nungambakkam High Road,
Nungambakkam, Chennai.
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Department of Hindu charitable Institution
and Tamil Culture
Secretariat, chennai-9.

+1cc to Mr.V.Srikanth, Advocate, S.R.No.16237

+1cc to the Government Pleader, High Court, Madras S.R.No.15917

W.P.No.2454 of 2012

EV(CO)
RMP(21/03/17)

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