



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.[MD].No.548 of 2017
and
C.M.P[MD]No.4582 of 2017

K.Thirumalai Jayabalamuthu : Appellant/Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
Madurai.

2.The Executive Officer,
Arulmigu Swayambu Saneeswara Bhagavan Thirukovil,
Kuchanur,
Uthamapalayam Taluk,
Theni District.

: Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 27.04.2017 made in W.P.(MD).No.8103 of 2017, on the file of this Court.

Prayer in WP(MD) . 8103/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned show cause notice dated 14.04.2017 issued by the 2nd respondent and quash the same.

For Appellant : Mr.G.R.Swaminathan

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader
(for R1)



JUDGMENT

[Judgment of the Court was delivered by M.V.MURALIDARAN, J.]

Heard learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the first respondent and the learned counsel for the second respondent.

2.The writ petitioner is the appellant. The writ petitioner is functioning as Poojari in Arulmigu Saneeswara Bhagavan Temple, Kochanoor. The Executive Officer of the temple issued the impugned show cause notice dated 14.04.2017 proposing appointment of Assistant Archahars to assist the writ petitioner, who is the main temple priest. The writ petitioner has been requesting that he may be permitted to take the assistance of his nephews. But the Executive Officer proposed to appoint Assistant Priest from other temples. This was challenged in the writ petition on more grounds than one. The principal ground is that the Executive Officer does not have the jurisdiction to issue the impugned show cause notice. But the learned Judge, by an order dated 27.04.2017, dismissed the writ petition on the ground that what was challenged is only a show cause notice and that the petitioner can very well submit his explanation. The writ petition was dismissed as premature. Aggrieved by the same, the present writ appeal has been preferred.

3.The learned counsel for the appellant would content that when a jurisdictional issue has been raised, it ought to be adjudicated. A show cause notice can be challenged on jurisdictional grounds. The counsel representing the Executive Officer could not cite any provision of law which would enable the Executive Officer to issue the show cause notice. He also heard the Special Government Pleader, H.R & C.E. It is beyond the dispute in the matter such as this, it is the Trust Board and in its absence, the Fit Person can issue such proceedings. The Executive Officer is certainly not having the power of statutory to issue the impugned show cause notice. The impugned show cause notice is therefore, quashed on this ground, namely, for want of jurisdiction. Needless to say, the authority which is otherwise competent can take action in the manner know to law, of course, after giving due personal hearing to the writ petitioner.

4.In view of the above, the writ appeal as well as the writ petition are allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
Madurai.

2.The Executive Officer,
Arulmigu Swayambu Saneeswara Bhagavan Thirukovil,
Kuchanur,
Uthamapalayam Taluk,
Theni District.

+1CC to M/S.G.R.Swaminathan, Advocate, SR.No. 57079
+1CC to the Special Government Pleader SR.No. 57428

JUDGMENT MADE IN
W.A.[MD].No.548 of 2017
24.05.2017

skn

AM/SV MMS/SAR 4/08.06.2017/3P/5C