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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
Dated : 17.08.2017

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.A.[MD].No.1115 & 1116 of 2016

and

C.M.P. (MD) .Nos.6873 & 6874 and 6875 & 6876 of 2016

1.The Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Chennai - 600 034.

2.The Assistant Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Dindigul.

... Appellants/Respondents 1 &2  
in Both Appeals

Vs.

1.S.B.Sankar

... 1<sup>st</sup> Respondent/Writ Petitioner  
in Both Appeals

2.The Executive Officer,  
Arulmigu Kambarayaperumal Temple,  
Cumbam.

... 2<sup>nd</sup> Respondent  
in W.A.(MD)No.1116 of 2016

**PRAYER in W.A(MD)No.1115 of 2016:** Writ Appeal is filed under Clause 15 of the Letters Patent, against the order passed by the learned Single Judge, dated 26.04.2016 in W.P.(MD)No.7732 of 2016.

**Prayer in WP(MD) . 7732/ 2016 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus call for the records in Ne.Mu.No.49331/2013/ E, 5 dated 13.08.2014 on the file of the 1st Respondent and quash the same and direct the 1st Respondent to delete the name of Arulmigu Subramaniaswamy Temple, Kombai, Theni District from the list of small temples in its register page No.365, Serial No.3.

**PRAYER in W.A(MD)No.1116 of 2016:** Writ Appeal is filed under Clause 15 of the Letters Patent, against the order passed by the learned Single Judge, dated 31.03.2016 in W.P.(MD)No.18219 of 2016.

**Prayer in WP(MD) . 18219/ 2013 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records in S.M.Na.Ka. 3743/2013 (1)/A 3 dated 30.10.2013 on the file of 2nd Respondent and quash the same.

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|------------------------|-------------------------------|
| For Appellants         | : Mr.T.S.Mohammed Mohideen    |
| (In both appeals)      | Additional Government Pleader |
| For R 2                | : Mr.M.Karuppasamy Pandian    |
| (In W.A(MD)No.1116/16) |                               |

**COMMON JUDGMENT**

[Judgment of the Court was delivered by **G.R. SWAMINATHAN, J.**]

W.A.(MD)No.1116 of 2016 is directed against the order dated 31.03.2016, made in W.P.(MD)No.18219 of 2013, while W.A.(MD)No.1115 of 2016 is directed against the order dated 26.04.2016 made in W.P.(MD).No.7732 of 2016.

2. The issue relates to the appointment of fit person for Arulmigu Subramaniya Swamy Temple, Kombai Village, Uthamapalayam Taluk, Theni District. The Assistant Commissioner, HR&CE Department, Dindigul by order dated 30.10.2013, appointed the Executive Officer of Arulmigu Kambarayaperumal temple, Cumbam, as fit person for the said temple. This order dated 30.10.2013, passed by the Assistant Commissioner, HR&CE Department, Dindigul was confirmed by the Commissioner, HR&CE Department vide order dated 13.08.2014. That is how two writ petitions came to be filed.

3. The first writ petition in W.P.(MD)No.18219 of 2013 was directed against the order dated 30.10.2013 passed by the Assistant Commissioner, HR&CE Department, Dindigul. The other writ petition in W.P.(MD).No.7732 of 2016, questioned the order dated 13.08.2014, passed by the Commissioner, HR & CE Department.

4. The writ petition in W.P.(MD)No.18219 of 2013 was taken up first and allowed. Consequently, W.P.(MD).No.7732 of 2016 was also allowed by the learned Single Judge. Therefore, the Department has filed the present two writ appeals.

5. Heard the learned Additional Government Pleader appearing for the appellants and the learned Counsel appearing for the second respondent in W.A.(MD)No.1116/16.

6. It is not in dispute that when W.P.(MD)No.18219 of 2013 was filed, an interim order of status-quo was granted on 12.11.2013. In the face of such an order directing maintenance of status-quo, the Commissioner, HR&CE Department could not have passed the order dated 13.08.2014 ratifying the earlier proceedings dated 30.10.2013. Therefore, learned Single Judge rightly found fault with the same.



7. Secondly, the order of appointment of fit person was issued without any notice to the incumbent in charge of the temple. When there is a temple, obviously it would be managed by somebody. That is why, it is necessary to issue notice to the incumbent charge holder and then pass an order. In this case, the said principle of natural justice was not followed. That apart, O.A.No.12 of 2013 has already been filed by the writ petitioner before the Joint Commissioner, HR&CE Department, Madurai, for declaration that the said institution is not a religious institution coming under the purview of the Act.

8. When the issue had directly been raised by the writ petitioner before one of the authorities under the Act, the matter can very well be resolved in the said proceedings itself. There is no need to appoint a fit person, unless there are certain serious allegations concerning the management of the temple. It is not open to the Department to straight away resort to the provision of appointment of the fit persons.

9. The learned Single Judge had considered the matter fully and allowed the Writ Petitions.

10. We see no ground to interfere with the same. These writ appeals are bereft of any merit. They stand dismissed. No Costs. Consequently, the connected miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Chennai - 600 034.

2.The Assistant Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Dindigul.

3.The Executive Officer,  
Arulmigu Kambarayaperumal Temple,  
Cumbam.

+1cc to M/S.Special Government Pleader,SR. 73199,73201

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17 August 2017