



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP (MD) No.17367 of 2017

and

WMP (MD) No.13900 of 2017

K.C.Palanisamy

... Petitioner

vs.

1) The Principal Secretary,
Secretariat,
Tourism, Culture and Religious
Endowment Department,
St.George Fort, Chennai.

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

3) C.Kalyani,
Holding the office of
Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Trichy-6.

... Respondents

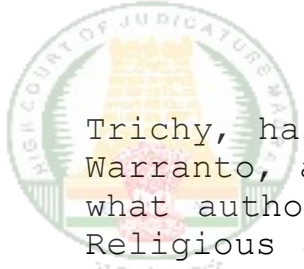
Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Quo-Warranto, against the 3rd respondent directing her to explain under what authority she holds the office of Joint Commissioner, Hindu Religious and Charitable Endowment Department, Trichy as on date and to continuous to hold the said post.

For Petitioner : Mr.AN.Ramanathan

For R1 & R2 : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

The petitioner claiming to be one of the litigants on the file of the Court presided over by the 3rd respondent/Joint Commissioner, Hindu Religious and Charitable Endowment Department,



Trichy, has come to this Court seeking issuance of a Writ of Quo-Warranto, against the 3rd respondent directing her to explain under what authority she holds the office of Joint Commissioner, Hindu Religious and Charitable Endowment Department, Trichy, as on date and to continue to hold the said post.

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2.The learned counsel appearing for the petitioner submitted that the 1st respondent has already passed an order of transfer of the 3rd respondent from 01.06.2017 from Trichy to Myladuthurai. Simultaneously, by common order of transfer, another Joint Commissioner, Hindu Religious and Charitable Endowment Department, working at Myladuthurai has been transferred to Trichy in the place of the 3rd respondent. In spite of long gap from 01.06.2017 ordering transfer of the 3rd respondent from Trichy to Myladuthurai, the 3rd respondent is continuing in the same place in Trichy District which is nothing but unlawful and illegal. Once the 3rd respondent is transferred from one place to another place, she cannot continue in the present place endlessly, as a result, the petitioner who is an applicant in A.P.No.55/2010 on the file of the 3rd respondent is facing huge prejudice.

3.Adding further, it is contended that the 3rd respondent should not be allowed to continue in the present place even after the order of transfer dated 01.06.2017. The reason is, even after transfer from Trichy to Myladuthurai, if she is permitted to hold the Court and passes any order that may not carry the legal sanctity which will definitely affect the case of the petitioner and his legal rights also. With this intention, the petitioner has been advised to come to this Court seeking the aforementioned prayer.

4.In reply, the learned Special Government Pleader appearing for the respondents 1 and 2 submitted that by a common order dated 01.06.2017, the 3rd respondent was transferred to Myladuthurai as a Joint Commissioner, Hindu Religious and Charitable Endowment Department, and in her place at Trichy, the Joint Commissioner serving at Myladuthurai has been posted, but however, before issuing the relieving order, this Court has passed a detailed order in an idol theft case giving some more assignment to the Joint Commissioner serving in Myladuthurai, as a result, the Joint Commissioner working in Myladuthurai could not be relieved. In view thereof, the 3rd respondent is retained without being issued with any relieving order. In view of the aforementioned administrative reason, the 1st respondent is unable to pass any relieving orders in favour of the 3rd respondent and also the Joint Commissioner working in Myladuthurai.

5.Adding further, it is submitted that the present writ petition also does not carry any merit for issuance of Writ of Quo-Warranto. Writ of Quo-Warranto can be issued only if the



appointment is made in violation of the statutory rules. In the present case, there is no violation of statutory rules. Moreover, as pleaded by the counsel for the petitioner when there is no relieving order issued, the 3rd respondent is legally entitled to continue in Trichy. Moreover, when the Joint Commissioner of HR&CE, Myladuthurai, is not relieved to join at Trichy, the petitioner certainly cannot have any right to file this writ petition. When a writ of quo warranto is claimed, the Court must be satisfied of two things, viz., (a) the office in question is a public office and (b) the holder is an usurper, without legal authority. This will lead to an enquiry as to whether the appointment has been made in accordance with law or not. But the petitioner failed to establish the latter.

6. Fully agreeing with the submission made by the learned Special Government Pleader appearing for the respondents and finding no merits whatsoever in the contentions of the petitioner, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1) The Principal Secretary,
Secretariat,
Tourism, Culture and Religious
Endowment Department,
St. George Fort, Chennai.

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

+1 cc to Mr. AN. Ramanathan, Advocate in SR.No. 78957
+1 cc to The Special Government Pleader in SR.No. 79334

nbi

AE/MR KKR/SAR1/22.09.2017/3P/5C

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