

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 16.08.2017

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.6303 and 13388 of 2017
and
W.M.P(MD) No.10445 of 2017

Muniyasamy

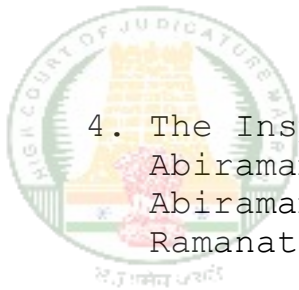
...Petitioner in W.P(MD)No.6303 of 2017

R.Mahalingam

...Petitioner in W.P(MD)No.13388 of 2017

Vs.

1. The Secretary and Member
Village Temple Poojari Welfare Board,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai - 34.
2. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Paramakudi,
Ramanathapuram District.
3. Balu @ Muniyasamy
...Respondents in W.P(MD)No.6303 of 2017
1. The Member Secretary,
Village Temple Poojari Welfare Board,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai - 34.
2. The District Collector,
Ramanathapuram District,
Ramanathapuram.
3. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Paramakudi,
Ramanathapuram District.



4. The Inspector of Police,
Abiramam Police Station,
Abiramam,
Ramanathapuram District.

5. Muniyasamy

6. Balu @ Muniyasamy

...Respondents in W.P(MD)No.13388 of 2017

PRAYER in W.P(MD)No.6303 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents to consider the petitioner's representation dated 01.03.2017 within the stipulated time as fixed by this Court.

PRAYER in W.P(MD)No.13388 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to appoint a competent common fit person from the petitioner's village to do the daily poojas and to conduct forthcoming festivals for our village temple namely Arulmighu Sri Perumarathu Muniyappaswamy Temple situated at T.Vallakulam, Punavasal Post, Kamuthi Taluk, Ramanathapuram District by considering the representations of the petitioner dated 31.05.2017 and 05.06.2017 within the time frame as fixed by this Court.

In W.P. (MD) No.6303 of 2017

For petitioner : Mr.P.Banuprasath
For R1, R2 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader.
For R3 : No appearance

In W.P. (MD) No.13388 of 2017

For petitioner : Mr.M.Sankar
For R1 to R4 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader.
For R5 : Mr.C.Bethanasamy
For R6 : No appearance

C O M M O N O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

W.P.(MD) No.6303 of 2017 has been filed by one Muniyasamy, S/o.Kallamuniyan for directing the respondents 1 and 2 to consider his representation dated 01.03.2017. In the said representation, the petitioner has stated that he is a poojari of T.Vallakulam,



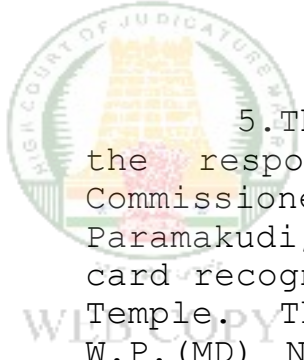
Punavasal Post, Kamudhi Taluk, Ramanathapuram District. He therefore, sought for issuance of the Identify Card from the first respondent board. He is aggrieved by the fact that the said board had already issued an Identity Card in favour of the third respondent namely, Balu @ Muniasamy, S/o. A.Muniyan.

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2. When the case was taken up for disposal along with W.P. (MD) No.13388 of 2017, it was pointed out that the writ petitioner herein had already filed W.P.(MD) No.2659 of 2017 questioning the issuance of identity card bearing No.104273 by the Assistant Commissioner, Hindu Religious & Charitable Endowment Department, Paramakudi, Ramanathapuram District in favour of the said Balu @ Muniyasamy. But the said writ petition was dismissed as withdrawn on 05.04.2017. Thus the writ petitioner's challenge to the issuance of membership Identity Card in favour of Balu @ Muniyasamy ended in dismissal. On account of withdrawal of the writ petition, it is not open to the writ petitioner to subsequently file the present writ of mandamus for considering his representation. The writ petition is clearly not maintainable. It therefore stands dismissed.

3. Now we come to W.P.(MD) No.13388 of 2017. Prayer in this writ petition is for directing the authorities to appoint a competent common fit person from the writ petitioner's village to do the daily poojas for the temple namely, Arulmighu Sri Perumarathu Muniyappaswamy Temple situated at T.Vallakulam, Punavasal Post, Kamuthi Taluk, Ramanathapuram District. The writ petitioner had already given representations in this regard.

4. The grievance of the writ petitioner is that on account of the dispute between two Muniasamys, the villagers are not permitted to even worship. The writ petitioner would contend that the Inspector of Police, Abiramam Police Station, Abiramam, Ramanathapuram District is supporting one candidate and he is preventing the villagers from offering their worship. This Court is not in a position to give a finding with regard to the said allegation. In any event, it is not open to the 4th respondent police to interfere in the matter. If any complaint disclosing the commission of cognizable offence is made out, it is open to the 4th respondent to take action as per law. But if the dispute is with regard to Pujari rights, it is not open to the 4th respondent to entertain the complaint. It is made clear that the villagers have a fundamental right to offer worship. This is guaranteed under Article 25 of the Constitution of India. The villagers appear to be threatened in view of the on going dispute between the two contestants. Therefore the only solution is to appoint a third person. But this Court cannot give any such



5. The learned Additional Government Pleader appearing for the respondents 1 to 4 has submitted that the Assistant Commissioner, Hindu Religious & Charitable Endowment Department, Paramakudi, Ramanathapuram District, had already issued membership card recognising Balu @ Muniyasamy as Village Poojari for the said Temple. This submission is placed on record. In fact that is why W.P.(MD) No.6303 of 2017 came to be filed and it is dismissed. Therefore, W.P.(MD) No.13388 of 2017 is disposed of by holding that the villagers are entitled to offer their worship and by restraining the 4th respondent from interfering in the rival claims of Pujari rights. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary and Member
Village Temple Poojari Welfare Board,
No.119, Uthamar Gandhi Road,
Nungambakkam, Chennai - 34.
2. The Assistant Commissioner,
Hindu Religious & Charitable Endowment Department,
Paramakudi,
Ramanathapuram District.
3. The District Collector,
Ramanathapuram District,
Ramanathapuram.
4. The Inspector of Police,
Abiramam Police Station,
Abiramam,
Ramanathapuram District.

+1cc to M/S. P.BANUPRASATH, Advocate, SR.No.72530.
+1cc to M/S. R.BABUJAGANATH, Advocate, SR.No.72528.
+1cc to M/S. C.BETHANASAMY, Advocate, SR.No.72477.
+1cc to Special Government Pleader, SR.No.73197.

ORDER MADE IN
W.P(MD) Nos.6303 and 13388 of 2017
and
W.M.P(MD) No.10445 of 2017
16.08.2017