



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Writ Petition (MD) No.6760 of 2016andW.M.P (MD) No.5827 of 2016

M.Chithambara Vathiyar

... Petitioner

Vs.

1.The Secretary,

Tamil Nadu Hindu Religious and
Charitable Endowment Department,
St., George Fort,
Chennai.

2.The Commissioner,

Hindu Religious and Charitable Endowment Board,
Nungambakkam, Chennai 34.

3.The Executive Officer / Joint Commissioner,

Arulmigu Subramaniya Swami Thirukovil,
Thiruchendur,
Tuticorin District.

4.P.T.Kottai Manikandan

Acting as Fit Person,
Arulmigu Subramaniya Swami Thirukovil,
Thiruchendur,
Tuticorin District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the Impugned Government Order in G.O.Ms.No.44 (Tourism Cultural Endowments Department) dated 28.01.2016 passed by the 1st Respondent herein and quash the same as illegal and further direct the 1st Respondent herein to pass appropriate orders declaring the 4th Respondent herein as a disqualified person to hold the post of Fit Person of Arulmigu Subramaniya Swami Thirukovil Tiruchendur.

For Petitioner	:	Mr.V.Meenakshisundaram
For Respondents 1&2	:	Mr.V.R.Shanmuganathan, Special Government Pleader.
For 3 rd Respondent	:	Mr.M.Muthugeethayan
For 4 th Respondent	:	Mr.AR.L.Sundaresan, Senior Counsel for Mr.C.Mahadevan

ORDER

Challenging the order passed by the Secretary to the Government, Tamil Nadu Hindu Religious Charitable and Endowment Department, the first respondent herein rejecting the application filed by the petitioner under Section 53(1-A) of the Tamil Nadu Religious and Charitable Endowments Act, 1959 to remove the fourth respondent who is acting as fit person in the third respondent temple, the present writ petition has been filed.

2. Heard Mr.V.Meenakshisundaram, learned counsel appearing for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 2, Mr.M.Muthugeethaiyan, learned counsel appearing for the third respondent and Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the fourth respondent.

3. The main grievance of the petitioner is that at the time of passing the impugned order one Mr.Ma.Veera Shanmugamani, I.A.S, was the Commissioner of HR & CE Board and the same person was also acting as Secretary to the Government, Tamil Nadu Hindu Religious and Charitable Endowment Department and he has in the capacity of Commissioner, HR & CE Board has considered a complaint filed by the petitioner against the appointment of fit person in the third respondent temple and made a recommendation in and by proceedings in Na.Ka.No.45698/2014/A2, dated 27.05.2015. Thereafter, the very same Officer acting as Secretary to Government, considered the above recommendation and passed the impugned order. Hence, the impugned order violates the basic requirement of principles of natural justice and therefore, the same is liable to be set aside.

4. Learned counsel appearing for the respondents did not dispute the above said submission.

5. It is settled law that it is against all canons of justice to make a man judge in his own cause and principles of natural justice applied equally to the exercise of quasi judicial as well as administrative powers. In the above circumstances, after sending recommendation on the complaint given by the petitioner, he cannot consider his own recommendation and pass an order rejecting the petitioner's complaint stating that since the complaint against the fit person is pending before the Court, no decision could be taken at this stage. Therefore, the impugned order totally violates the principles of natural justice and the same is liable to be set aside.

6. Learned counsel for the respondents would submit that, now a new incumbent has been appointed as Secretary to Government,



Hindu Religious and Charitable Endowments Department and therefore, he may be directed to consider the application filed by the petitioner afresh.

7. In the above circumstances, the impugned order passed by the first respondent dated 28.01.2016 is set aside and the matter is remanded back to the first respondent for fresh consideration. Accordingly, the first respondent is directed to consider the application filed by the petitioner under Section 53 (1-A) of the Tamil Nadu Religious and Charitable Endowments Act, 1959 and pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, after giving sufficient opportunity to the petitioner as well as other rival claimants. It is needless to mention that the first respondent while passing orders in the petitioner's application, shall consider the pleadings available on record as on today.

8. The writ petition is accordingly allowed. No costs. Consequently, W.M.P(MD) No.5827 of 2016 is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
St., George Fort, Chennai.
2. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam, Chennai 34.

+1 cc to Mr.M.Muthugeethayan, Advocate, Sr.No:72130
+1 cc to Mr.Al.Ganthimathi, Advocate, Sr.No:72104
+1 cc to Mr.D.Nallathambi, Advocate Sr.No.73345

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