



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.10105 & 10106 of 2014

and

M.P.Nos.1 & 1 of 2014

V.R.Muralidharan

...Petitioner in WP.10105/14

V.R.Narayanan

...Petitioner in WP.10106/14

Vs.

1.The Joint Commissioner

Hindu Religious and Charitable Endowment
(Admin) Department, Coimbatore-18.

2.The Commissioner, Hindu Religious

and Charitable Endowment (Admin) Department
No.119, Uthamar Gandhi Salai
Nungambakkam, Chennai.

... Respondents in both Wps.

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Prohibition, to prohibit the respondent No.1 from initiating the fresh enquiry as mandated by the respondent No.2 by its order dated 04.10.2013 in suo motu Revision 3/2009/D2 pending disposal of the Civil Appeal filed by the petitioner before the Civil court in O.S.No.1575/2013 on the file the Subordinate Judge of Coimbatore.

For Petitioner : Mr.S.V.Pravin Rathinam [in both WPs]

For Respondents : Mr.M.Maharaja [in both WPs]
Special Government Pleader[HR&CE]

C O M M O N O R D E R

The present writ petition has been filed seeking for a writ of prohibition to prohibit the respondent No.1 from initiating the fresh enquiry as mandated by the respondent No.2 by its order dated 04.10.2013 in suo motu Revision 3/2009/D2 pending disposal of the Civil Appeal filed by the petitioner before the Civil court in O.S.No.1575/2013 on the file the Subordinate Judge of Coimbatore.



2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner had already filed a civil suit in O.S.No.1575 of 2013 questioning the jurisdiction and power of Commissioner, HR&CE Department for conducting the re-enquiry. The relief sought for in the civil suit is to set aside the order of Commissioner, HR&CE Department, Chennai made in Suo Motu Revision No.3/2009/D2, dated 04.10.2013. The second limb of the prayer is for a permanent injunction. Thus, the civil suit was filed challenging the order passed by the Commissioner in proceedings dated 14.10.2013. However, the present writ petition is filed challenging the exercise of suo motu power of the Commissioner under the Provisions of the Act.

3.The learned counsel for the petitioner made a submission that the writ petitioner is not accepting any offerings from the public by way of Hundial as a right. This apart, the Temple is maintained for the benefit of the people of that locality by the petitioner and he is not collecting any money from the public for the maintenance of the Temple. However, an enquiry under the provisions of the Act was conducted initially by the Joint Commissioner of HR&CE department. The Commissioner having not satisfied with the findings of the enquiry conducted by the Joint Commissioner and after ascertaining certain discrepancies, invoked the suo motu powers under Section 69(2) of the HR&CE Act and passed an order for conducting of re-enquiry in respect of the functioning of the Temple. The findings of the Commissioner in the impugned proceedings states that the earlier enquiry conducted by the Joint Commissioner was not in consonance with the provisions of the Act. The Joint Commissioner has not decided the matter with reference to Sections 6(18) and 6 (20) of the Act, 1959. Therefore, the order dated 14.08.2007 passed in O.A.No.9/2007 is hereby set aside and the matter is remanded back to the Joint Commissioner, Coimbatore to hold an enquiry denova after affording opportunity of being heard to the respondents and other persons having interest over the Temple. Thus, there was a direction from the Commissioner to conduct fresh enquiry for submission of report in this regard.

4.The learned counsel for the writ petitioner contends that the earlier enquiry report itself is comprehensive in nature and therefore, re-enquiry is unnecessary.

5.The said contention at this point of time cannot be accepted in view of the fact that the specific finding in the order of the Commissioner is that the earlier report submitted by the Joint Commissioner is not in consonance with the provisions of the Act. Based on the said finding the Commissioner issued an order for suo motu re-enquiry. After all the commissioner has remanded the matter for conducting a fresh enquiry under the provisions of the Act by providing opportunity



to all the parties. This being the factum of the case, the suo motu order passed by the Commissioner under Section 69(2) of the Act is in accord with law. This court finds that there is no infirmity in respect of the decision taken by the Commissioner. Thus, the writ petitioner has to co-operate for conducting of re-enquiry and the Joint Commissioner is bound to conduct a fresh enquiry by affording opportunities for all the parties concerned and pass orders on merits and in accordance with law within a reasonable period of time and preferably within a period of 4 months from the date of receipt of a copy of this order.

6. With these directions, these writ petitions stand disposed of. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

may a

To

1. The Joint Commissioner
Hindu Religious and Charitable Endowment
(Admin) Department, Coimbatore-18.
2. The Commissioner, Hindu Religious
and Charitable Endowment (Admin) Department
No.119, Uthamar Gandhi Salai
Nungambakkam, Chennai.

+1cc to the Government Pleader, S.R.No.32797

W.P.Nos.10105 & 10106 of 2014

KK(CO)
CS/08/06/18