

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31075 of 2017

and

W.M.P.No.34075 & 34076 of 2017

T.Padmanaban

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Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Board,
Mahatma Gandhi Road, Nungambakkam
Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Board,
Salem.

3.The Executive Officer,
Arulmigu Govindaraja Peruman Temple.
Udayapatti, Salem.

4.M.Chockalingam

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Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 3rd Respondent impugned show cause notice vide No.Nil dated 09.11.2017 and quash the same.

For Petitioner : M/s. Shobana Ramasubramaniam

For Respondents : Mr.M.Maharaja [For R1 to R3]
Special Government Pleader (HR&CE)
Mr.V.Raghavachari [For R4]

O R D E R

The show cause notice issued by the Third Respondent in proceedings dated 09.11.2017 directing the Writ Petitioner to submit his explanation/ objections for his continuance as Archagar in Arulmigu Govindaraja Perumal Temple at Udayapathi, Salem Taluk, Salem is under challenge in this Writ Petition.

2.The learned counsel for the Writ Petitioner states that the Writ Petitioner is one of the Hereditary Trustee cum Archagar of the Third Respondent Temple, which is under the direct control of the Second Respondent. The Petitioner has already spent more than 63 years in the Temple and he is performing the pooja and other rituals in the said Temple from the age of seven onwards. Thus, the Writ Petitioner should be allowed to continue as Archagar in the very same Temple.

3.The learned Special Government Pleader appearing on behalf of the Respondents 1 to 3, opposed the contention by stating that the Writ Petitioner has already crossed the age of 60 years and therefore, he is not entitled to continue as Archagar in this Temple. In this regard, the Third Respondent issued a show cause notice to the Writ Petitioner enable him to submit his explanation. In stead of submitting his explanation to the impugned show cause notice, the Writ Petitioner has chosen to file the present Writ Petition. Therefore, the Writ Petition is liable to be rejected.

4.The learned counsel appearing on behalf of the Fourth Respondent also opposed the contention by stating that the Writ Petitioner is not entitled to continue as an Archagar in the Third Respondent Temple and therefore, the show cause notice issued by the Third Respondent is in accordance with the procedures of law and there is no infirmity as such.

5.Considering the arguments advanced by the parties to the lis.

6. This Court is of an opinion that what is under challenge in this writ petition is a show cause notice. No writ can be entertained against a show cause notice in a routine manner. Judicial review against the show cause notice is certainly limited and the constitutional courts can entertain a writ petition challenging show cause notices or charge memo only on exceptional circumstances. A writ against a show cause notice shall be entertained if the notice has been issued by the incompetent authorities having no jurisdiction or an allegation of malafides are raised or if the notice is in violation of the statutory provisions in force. Even in case of raising an allegation of malafides, the authorities against whom such an allegation is raised is to be impleaded as party respondent in the writ petition in his personal capacity. In the absence of any such legal grounds no writ can be entertained against a show cause notice.

7.However, it is open to the writ petitioner to submit his explanations /objections to the authority concerned for consideration. Contrarily, he cannot rush to this court

challenging the very show cause notice itself. The merits and demerits of the case can never be adjudicated in a writ petition filed challenging the show cause notice. The merits, demerits and factual aspects of the notice has to be adjudicated only by the competent authorities after submission of the reply/objection by the person against whom such show cause notice has been issued.

8.This being the legal principles to be followed, it is left open to the writ petitioner to submit his explanations/submissions to the competent authorities in response to the show cause notice and on receipt of the same, all further proceedings shall be continued and the issues are to be decided on merits and in accordance with law.

9.In view of the above fact, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

may
To

- 1.The Commissioner,
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Nungambakkam, Chennai - 600 034.
- 2.The Joint Commissioner,
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Salem.
- 3.The Executive Officer,
Arulmigu Govindaraja Peruman Temple.
Udayapatti, Salem.

+1cc to Mr.V.Raghavachari, Advocate Sr.55870
+1cc to the Special Government Pleader Sr.56195
+1cc to M/S.Shobana Ramasubramaniam, Advocate Sr.55844

W.P. No.31075 of 2017

srg 10/09/2018