

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.29069 of 2017
and
W.M.P.No.31305 of 2017

V.Narasimhan

...Petitioner

vs.

1. The Joint Commissioner,
HR & CE Department,
Villupuram - 605 602.

2. The Commissioner,
HR & CE Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

3. Executive Officer,
Arulmigu Vedapureeswarar Temple,
Thiruvathipuram,
Cheyyar - 604 407.

4. Government of Tamil Nadu,
represented by its Secretary,
HR & CE Department,
Fort St.George,
Chennai - 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to impugned order passed by the 1st respondent in Order Sa.Moo.Na.Da.Na.Ka No.3222/2017/Aa dated 08.11.2017 and quash the same.

For Petitioner : Mr.Raghavan Ramabadran

For Respondents : Mr.M.Maharaja
Special Government Pleader

O R D E R

The petitioner is aggrieved against the order passed by the first respondent dated 08.11.2017 appointing a fit person to a Temple, by name "Arulmigu Sri Lakshmi Narayana Perumal-Srinivasa Perumal Temple", Navalpakkam Village, Vandavasi Taluk, Thiruvannamalai District.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The petitioner claims to be the hereditary Trustee of the said Temple, namely Arulmigu Sri Lakshmi Narayana Perumal-Srinivasa Perumal Temple. According to the petitioner, the said Temple was ordered to be an Excepted Temple as per the order made in O.A.No.153/1938 vide Board Order No.3559 dated 31.10.1938 and therefore, it continues to be under the governance of the descendants of a particular denomination namely Thathachar Community of S.Navalpakkam and the scheme of succession. Thus, it is contended by the petitioner that no person other than the lineal descendants of the said denomination can be appointed either as Trustee or other Administrator of the said Temple, according to Section 107 of the HR & CE Act. It is further stated that on 11.11.2017, the petitioner was served with the impugned order passed under Section 47(2) of the said Act appointing a Fit Person to the said Temple. According to the petitioner the reasons set out in the impugned order are totally erroneous. It is also the contention of the petitioner that the impugned order suffers on the ground of violation of principles of natural justice as no notice was issued to the petitioner or any other persons interested in the administration of the temple before passing the same.

4. Learned counsel appearing for the respondents, on the other hand, submitted that since the Department received several complaints against the management of the Temple the impugned order was passed. However, he is fair enough to state that the second respondent will pass a fresh order after giving due opportunity of hearing to all the parties concerned including the petitioner, as the present impugned order was passed without issuing notice to the petitioner and other interested persons.

5. Though several grounds were raised in the writ petition as against the impugned order touching upon the merits of the reason stated therein, this Court, at this stage, is not inclined to go into the same and give any finding, since this Court is satisfied to set aside the impugned order solely on the

ground of violation of principles of natural justice and remit the matter back to the first respondent for reconsidering the whole issue once again afresh after giving due opportunity of hearing to the petitioner as well as other interested persons.

6. Admittedly, the impugned order was passed without following the principles of natural justice as the petitioner and other interested persons were not put on notice before appointing the Fit Person. Therefore, in all fairness, the first respondent shall reconsider the matter afresh, after giving due opportunity of hearing to the petitioner as well as the other interested persons. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent for reconsidering the whole issue afresh and pass orders uninfluenced by any of the findings or reasons given in the impugned order, after giving due opportunity of hearing to the petitioner as well as the other interested persons in connection with the administration of the Temple. Such exercise shall be done by the first respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vsi

To

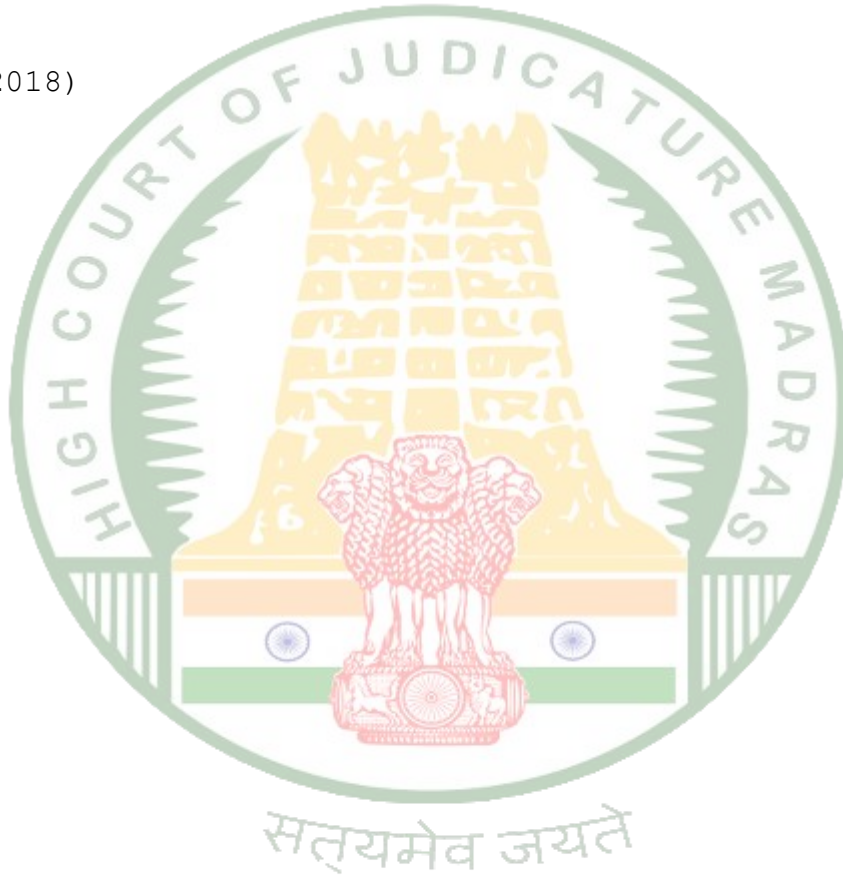
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+1cc to Mr.RAGHAVAN, Advocate, S.R.No. 531
+1cc to the Government Pleader, S.R.No. 1270

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CNR(CO)
TR(19/01/2018)



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