



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.1641 of 2018
and
WMP (MD) No.1741 of 2018

Suyambunadar ... Petitioner
Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Near American School, Tuticorin,
Tuticorin District.

2.The Inspector of Police,
Hindu Religious and Charitable Endowment Board,
Arulmigu chockkalingaswamy Thirukovil,
Eral, Tuticorin. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Notice passed by 2nd Respondent vide in proceedings in Vu.AA.Thuu.Ti.Na.Ka.3747/2017 vide dated 22.11.2017 and quash the same as illegal and pass such order .

For Petitioner : Mr.N.Anandakumar
For Respondents : Mr.J.Padmavathy Devi,
Special Government Pleader

ORDER

Notice issued by the second respondent in proceedings dated 22.11.2017 is under challenge in this writ petition.

2. On perusal of the impugned notice dated 22.11.2017, it is stated that there are disputes between the members of the administration belonging to the two different groups. In this regard the respondents issued notice to participate in the enquiry. The notice was issued by the Inspector of Hindu Religious and Charitable Endowment Department, Eral. Instead of participating in the enquiry and defending his case, the writ petitioner has moved the present writ petition.



3. This Court is of an opinion that no writ can be entertained against a notice in a routine manner. Judicial review in respect of notice is certainly limited and the writ petition can be entertained only on exceptional circumstances, if the notice is issued by the incompetent authority, having no jurisdiction or if allegations of mala fide are raised or if the same is in violation of the statutory Rules in force. Even in case of raising allegation of mala fide the authority against whom such an allegation is made, has to be impleaded as party respondent in his personal capacity. In the absence of anyone of these legal grounds, no writ petition can be entertained against a notice. It is left open to the writ petitioner to submit his explanation/objection to the show cause notice and defend his case in accordance with Rules and by availing opportunity provided under the Rules. Thus, the legal principles settled is to be followed, while dealing with the writ petitions challenging the notices. Therefore, the present writ petition is devoid of merits.

4. In view of the fact the notice is issued by the competent authority, no writ can be entertained. It is left open to the writ petitioner to participate in the enquiry and defend his case in the manner known to law.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, WMP(MD)No.1741 of 2018 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Near American School, Tuticorin,
Tuticorin District.

2. The Inspector of Police,
Hindu Religious and Charitable Endowment Board,
Arulmigu chockkalingaswamy Thirukovil,
Eral, Tuticorin.

+One cc to M/s.V.Malaiyendran, Advocate, SR.No.45044
+One cc to The Special Government Pleader, SR.No.44802

dsk

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