



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2018

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.3704 of 2018andW.M.P(MD)Nos.3846 and 3847 of 2018

The President,
Swami Sadasivananda Trust,
Sri Kailasa Ashramam,
Nerur 639 004
Manmangalam Taluk,
Karur District.

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.

2.The Executive Officer,
Pudukottai Devasthanam,
Pudukottai Temples,
Pudukottai.

... 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 2nd respondent in Na.Ka.No.307/2015/J, dated 01/12/2017 and quash the same and further direct the respondents not to interfere with administration of petitioner's trust.

For Petitioner	: Mr.K.Govindarajan
For 1 st Respondent	: Mr.Aayiram K.Selvakumar, Additional Government Pleader.
For 2 nd Respondent	: Mr.G.Mathavan

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 01.12.2017 taking over the petitioner mutt.

2.Learned counsel appearing for the petitioner submitted that the second respondent has no power to pass the order taking over the mutt and if the Government wants to take over the mutt, the Commissioner should conduct an enquiry under Section 3(2) of the Hindu Religious and Endowments Act, 1959 (in short, 'the Act') and file a report before the Government and after considering the report, the Government alone has power to issue notification taking over the mutt. In the instant case, the second respondent who has



no power passed the impugned order. Challenging the same, the present writ petition has been filed.

3.Learned counsel appearing for the respondents is not disputing the contention of the learned counsel for the petitioner.

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4.I have considered the submissions made on either side and perused the materials available on record.

5.Admittedly, as per Section 3(2) of the Act, only the Government has power to take over the mutt, that too, only based on an enquiry conducted by the Commissioner, HR & CE. The Executive Officer, the second respondent herein has no power to pass the impugned order and hence, the same is liable to be set aside. Accordingly, the impugned order passed by the second respondent is set aside. The writ petition is allowed. No costs. Consequently, W.M.P(MD)Nos.3846 and 3847 of 2018 are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.

+1CC to Mr.K.Govindarajan, Advocate, SR.No. 50644
+1CC to Mr.G.Mathavan, Advocate, SR.No. 51040
+1CC to the Special Government Pleader SR.No.50982

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and
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sms

AM/SKN RSK/SAR 4/14.03.2018/2P/5C