



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2018

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.22338 of 2018

P.Chinnadurai,
S/o.Pitchaikaran,
Founder, Aandavar Annathanam Trust,
1/409, Kurunchinagar,
Veerapandianpatnam,
Tiruchendur,
Thoothukudi District.

... Petitioner

/Vs./

1.The Commissioner,
HR & CE Department, Chennai.

2.The Joint Commissioner,
HR & CE, Tiruchendur,
Thoothukudi District.

3.The Executive Officer,
Tiruchendur Murugan Temple,
Tiruchendur, Thoothukudi District.

... Respondents

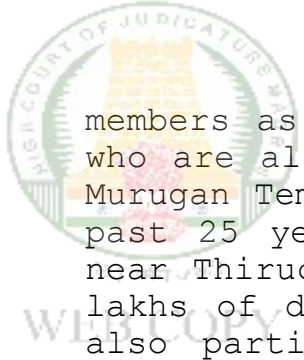
Prayer: Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to consider the petitioner's representation, dated 27.10.2018 that to give a permission to conduct Annathanam at Muvar Samathi near Thiruchendur Murugan Temple, Thoothukudi District in the eve of Sasti festival from 8th November to 14th November 2018.

For Petitioner	: Mr.S.Senthilkumar
For R-1 & R-2	: Mr.C.M.Mari Chellaiah Prabhu Additional Government Pleader
For R-3	: Mr.Muthu Geethayan

ORDER

This writ petition has been filed for a direction to the second respondent to consider the petitioner's representation, dated 27.10.2018 and to give permission to conduct Annathanam at Muvar Samathi near Thiruchendur Murugan Temple, Thoothukudi District in the eve of Sasti festival from 8th November to 14th November 2018.

2.The case of the petitioner is that he has been running a trust namely, Aandavar Annathana Arakattalai bearing Registration No.65/2006 before the Aaral Sub Register Office, consisting of 11



members as the trustees. They offered Annathanam to the devotees, who are all coming to offer their prayers to the Lord Thiruchendur Murugan Temple at the time of Shashti and other Festivals. For the past 25 years, he has been providing Annathanam at Muvar Samathi near Thiruchendur Murugan Temple, Thoothukudi District. More than 3 lakhs of devotees would come to offer their prayers and they will also participate in Annathanam, served by the trustees. He is providing Annathanam with hygienic quality food, which was certified by Tamil Nadu Food Safety and Drug Administration Department (FSSAI).

3.While so, two years back, all of a sudden, the HR & CE Department took over the Muvar Samathi. Since the petitioner has been serving Annathanam to the pilgrims and devotees, poor and needy people, he gave a representation to the second respondent on 15.10.2018 to conduct Annathanam. But, there was no reply from the second respondent. Then, he was constrained to send another representation on 27.10.2018. Instead of giving permission to conduct Annathanam for Shashti Festival, the second respondent has rejected the said application by an order dated 08.11.2018.

4.It could be seen from the typed set of papers that the petitioner is collecting donations from the general public and providing Annathanam to the people concerned. A complaint was lodged by one N.Sudalai, which was received by the authorities on 17.10.2017, stating that the trust, which is not a registered trust, has swindled money and hence, as per Section 20 (B) IPC, necessary action should be taken against the trustees. On 25.05.2018, the Joint Commissioner of the above said Temple has sent a notice to the concerned trust stating that the permission of serving Annathanam is rejected and if any such activities is taken up inside the temple, necessary action will be taken. Another complaint was lodged by one A.Subbiya Moopnar, Atthur on the same set of allegation. A person called Venkata Ramanan, who is a poojari in Moovar Samathi, has made a statement that the said trustees have been receiving money from the general public and the devotees without any permission and he has also sought for taking action against the said trust. On 04.09.2018, the Joint Commissioner of the said Temple has passed an order in Na.Ka.No.6156/2016/Vo3-1 against this petitioner.

5.It is seen that when permission was rejected to conduct Annathanam at Muvar Samathi, the said trustees gave Annathanam on Pournami Day. Hence, explanation was sought from the said Poojari on 05.10.2018. On 08.11.2018, an order has been passed by the Joint Commissioner of the said Temple, in which 27 proceedings have been listed out including letters and communications, wherein, the requisition dated 08.12.2016, 04.05.2017 and 17.05.2018 letters have been rejected as per the orders of the Joint Commissioner on 25.05.2018. The said order has not been challenged before this Court by the petitioner. For the complaints against the said trustees stating that Annathanam is being conducted inside the temple premises, notices were sent on various dates. Enquiry was



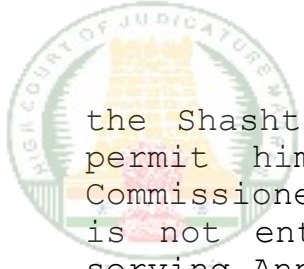
conducted on 16.11.2017, 04.12.2017, 14.12.2017, 07.02.2018 and 16.04.2018. The petitioner has also given explanation on 19.12.2018, 27.04.2018 and 17.05.2018.

6. After perusing all the materials and documents received from the general public, the petitioner was directed to produce the necessary documents and receipts for the amount received as donations from the general public. But, the petitioner has not submitted the same before the respondents. In the meanwhile, the petitioner gave representations for serving Annathanam on 15.10.2018 and 02.11.2018, which were received on 30.10.2018 and 07.11.2018. Complaints were received against the petitioner that the trustees have been unlawfully receiving donations from various people. When he has not chosen to produce relevant documents that the said money is only been spending for Annathanam, as per Rule 5-A of the relevant Code, the above said action is against law and based on the said documents, criminal action will be taken against the said person. Based on this, the second respondent rejected the petitioner's claim for serving Annathanam to the devotees. Hence, the petitioner is before this Court by way of this writ petition and the matter came up for admission on 01.11.2018 and posted on 04.12.2018.

7. In the meanwhile, the learned counsel appearing for the petitioner represented before this Court that there is an urgency, since the Annathanam is to be served on Shashti Festival days, which was denied by this Court and the matter was adjourned to 09.12.2018. The learned counsel appearing for the petitioner filed a fix an early date petition in WMP(MD)No.20523 of 2018 on 09.11.2018 and the matter has been listed today as item No.108 under the caption for "Adjourned Admission" before this Court. The learned counsel appearing for the petitioner, who appeared on earlier occasions, did not appear today. Mr.U.Antony Santhosh, learned counsel appeared before this Court and argued the matter. The counsel for the respondent temple has no objection in taking up the main writ petition itself.

8. Mr.Muthu Geethayan learned counsel appearing for the temple would contend that the petitioner is not entitled to serve Annathanam in the Muvar Samathi, which is under the control of HR & CE Department. The petitioner has no right to perform such Annathanam in the above said Temple premises.

9. It could be seen from the records that the said Muvar Samathi is under the control of Arulmigu Subramania Swami Devasthanam, Tiruchendur and a bus stand is also being constructed in that area. Muvar Samathi is situated next to beach. Concerned authorities are correct in declining permission to serve Annathanam during festival days. When the petitioner has failed to submit all the relevant documents of collection of money and if he is doing on his own money, it is for him to produce the said documents and establish the case before the Joint Commissioner. The petitioner at the end of



the Shashti day approached this Court and sought for a prayer to permit him to serve Annathanam to the devotees. The Joint Commissioner categorically stated in his order that the petitioner is not entitled to serve Annathanam and if he is interested in serving Annathanam, he can pay money to the temple concerned and the temple concerned themselves will provide Annathanam to the devotees. If he is so aggrieved by the said order, he can get necessary permission from the concerned police department to serve Annathanam in any other alternate place.

10. This Court do not express any of its opinion in this matter and this Court is not inclined to pass any order against the order passed by the respondent.

11. It is made clear that the petitioner is not entitled to conduct Annathanam inside the temple premises. If he has any other alternate place, it is left open to the petitioner to approach the concerned authorities seeking permission for serving Annathanam in that place.

12. With the above observations and directions, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-III)

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To

1. The Commissioner,
HR & CE Department, Chennai.

2. The Joint Commissioner,
HR & CE, Tiruchendur,
Thoothukudi District.

3. The Executive Officer,
Tiruchendur Murugan Temple,
Tiruchendur,
Thoothukudi District.

+1cc to Mr.M.Muthu Geethayan, Advocate in SR No.94910

+1cc to Mr.K.S.Senthil Kumar, Advocate in SR No.94902

+1cc to The Spl Government Pleader, SR No.94968

W.P. (MD) No.22338 of 2018