

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7149 of 2018

and

W.M.P.No.8861, 8862 of 2018

A.Elamparithi

.. Petitioner

vs

1.State of Tamil Nadu, rep. by its  
Secretary to Government,  
Tourism, Culture and Religious Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner,  
Hindu Religious & Charitable Endowments Department,  
Chennai - 600 034. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the Respondents to revoke the order of suspension passed by the first Respondent in G.O.2(D) No.4, Hindu Religious & Charitable Endowments Department, dated 26.04.2016 and revoke the same, by considering the representation made by the petitioner dated 04.11.2016 and 23.12.2017.

For Petitioner : Mr.P.Ganesan  
for M/s.C.S.Associates

For Respondents: Mr.M.Maharaja  
Special Government Pleader

O R D E R

The order of suspension dated 26.04.2016 issued by the first respondent is under challenge in the present writ petition.

2. The petitioner was working in the cadre of the Deputy Commissioner in Hindu Religious & Chartable Endowments Department. On account of the charges of misappropriation of funds of the temple properties, a criminal case was registered against the writ petitioner and he was arrested and remanded to judicial custody for more than 48 hours. Thus, the first

respondent initiated disciplinary proceedings against the writ petitioner and the order of suspension was issued in G.O.(2D) No.4, Hindu Religious & Charitable Endowments Department, dated 26.04.2016.

3. The learned counsel for the writ petitioner states that the petitioner is having few more months of service for attaining superannuation and therefore, the order of suspension would affect the retirement of the writ petitioner. Undoubtedly, the impugned order of suspension issued by the competent authorities are on account of certain serious allegations of misappropriation of the public funds and further a criminal case also has been registered against the writ petitioner and the investigations are in progress. Under these circumstances, revocation of suspension would cause prejudice to the interest of the public administration.

4. Even if, the date of superannuation has reached to the writ petitioner, the competent authorities have to issue a fresh order in accordance with the service Rules in force. If the criminal case is pending and the departmental disciplinary proceedings are already initiated, then appropriate order are to be passed on the date of retirement in accordance with the Rules in force.

5. When the criminal case as well as the departmental disciplinary proceedings are pending against the writ petitioner and the writ petitioner is also shortly going to attain the age of superannuation, this Court is of the considered opinion that revocation of suspension at this juncture is certainly not preferable and the writ petitioner has to face the departmental disciplinary proceedings as well as the criminal case registered against him. Because, after his retirement, the order to be passed by the competent authorities should be followed and under these circumstances, the very relief sought in the present writ petition for revocation of suspension cannot be considered.

Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

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sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

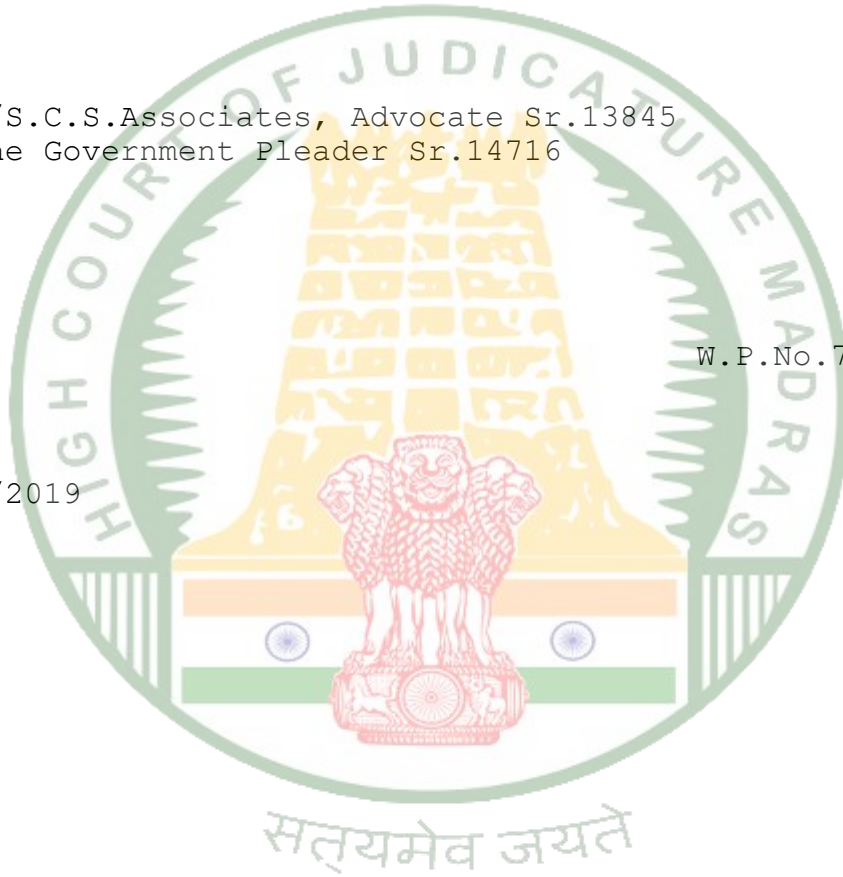
1.The Secretary to Government,  
Tourism, Culture and Religious Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner,  
Hindu Religious & Charitable Endowments Department,  
Chennai - 600 034.

+1cc to M/S.C.S.Associates, Advocate Sr.13845  
+1cc to the Government Pleader Sr.14716

W.P.No.7149 of 2018

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srg 20/03/2019



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