

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12-02-2019

CORAM

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

W.P.No.3772 of 2018

And

W.M.P.Nos.4599, 4600 and 4601 of 2018

M.Dharman

.. Petitioner

- Vs. -

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-34.

2.The Joint Commissioner/Executive Officer,
Arulmigu Subramania Swamy Thirukoil,
Thiruthani,
Thiruvallur District.

3.Thiru S.Shivaji

4.The Board of Trustee/Fit Person,
Arulmigu Subramania Swamy Thirukoil,
Thiruthani,
Thiruvallur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the second respondent culminating in the impugned order made in Na.Ka.No.2231/2017/A2, dated 18.12.2017 and quash the same.

For Petitioner : Mrs.G.Thilagavathy SC for
Mr.R.Gopinath

For Respondents-1,3&4 : Mr.M.Maharaja,
Additional Government Pleader
(HR&CE) .

For Respondent-2 : Mr.R.Gopalan

O R D E R

The order of suspension as well as the charge memo issued by the second respondent in proceedings dated 18.12.2017, is under challenge in the present writ petition.

2. The learned Senior Counsel, appearing on behalf of the writ petitioner, states that on account of certain flimsy allegations, the writ petitioner is placed under suspension and the charge are framed. The fact remains that the enquiry proceedings have already been commenced and the writ petitioner submitted an objection in respect of the appointment of an Enquiry Officer, more specifically, the Enquiry Officer appointed is a Retired Government Servant and now serving on a consolidated pay. Thus, the writ petitioner may not get a fair opportunity of hearing before such a person, who is now working under the control of the respondents.

3. The learned Special Government Pleader, appearing on behalf of the HR&CE Department, made a submission that the Department is ready to change the Enquiry Officer and now it is proposed that the Assistant Commissioner serving in the Headquarters would be conducting an enquiry in respect of the allegations set out against the writ petitioner.

4. In view of the submissions of the learned Special Government Pleader, appearing on behalf of the HR&CE Department, this Court is inclined to pass the following order:-

(1) The first respondent is directed to appoint any one of the Assistant Commissioner working in the Commissionerate for the purpose of conducting an enquiry in respect of the allegations set out in the charge memo dated 18.12.2017 against the writ petitioner.

(2) The Assistant Commissioner so appointed shall provide an opportunity to the writ petitioner to defend his case in the manner prescribed and accordingly, submit a report as expeditiously as possible and within a period of two months.

(3) On receipt of the enquiry report, the Disciplinary Authority/second respondent is directed to consider the materials available on record and pass final orders in the departmental disciplinary proceedings, within a period of three months from the date of receipt of the enquiry report.

(4) The writ petitioner is directed to cooperate for the disposal of the departmental disciplinary proceedings and in the event of any non-cooperation on the part of the writ petitioner, the same shall be recorded by the Enquiry Officer as well as by the Disciplinary Authority in the proceedings itself.

5. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-34.
- 2.The Joint Commissioner/Executive Officer,
Arulmigu Subramania Swamy Thirukoil,
Thiruthani,
Thiruvallur District.
- 3.The Board of Trustee/Fit Person,
Arulmigu Subramania Swamy Thirukoil,
Thiruthani,
Thiruvallur District.

+1cc to Mr.R.Gopalan, Advocate sr.no.12521
+1cc to Mr.R.Gopinath, Advocate sr.no.12713

W.P.No.3772 of 2018

nr 14/03/2019

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