

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8165 of 2019
and
W.M.P.Nos.8737 & 8738 of 2019

OM Sri Sarva Sakthi Mariamman
Baktha Jana Sabha Trust,
(REGN No.705/18)
Rep. by its Chief Trustee K.Durairaj,
R.119, Mathur, Chennai-600068. ...Petitioner

Vs.

1. The Commissioner,
HR&CE Nungambakkam,
Chennai-34.
2. The Joint Commissioner,
HR&CE Nungambakkam,
Chennai-34.
3. The Executive Officer,
Sarva Sakthi Mariamman Temple,
Mathur, Chennai-600068
(having office at Sundaraja Perumal
and Anjaneya Swamy Temple.
32, Alathur Subramania Street,
Choolai,
Chennai-112. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent viz., the impugned Digital banner notice dated 28.02.2019 of 3rd respondent preventing the functioning of petitioner Trust in regard to the administration of Sri Sarva Sakthi Mariamman Temple MMDA Mathur functioning at R 119 MMDA.Mathur Chennai and doing Tirupani as hitherto and quash the same and consequently direct the 3rd respondent to remove the Digital Banner notice dated 28.02.2019 put up in Sri Sarva Sakthi Mariamman Temple premises, MMDA Mathur, Chennai 68 with the seal and signature of the 3rd respondent.

For Petitioner: Mr.M.Kalyanasundaram
Senior Counsel for
Mr.S.Pon Jeganathan

For Respondents: Mr.M.Maharaja
Special Government Pleader

O R D E R

Mr.M.Maharaja, learned Special Government Pleader takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This Writ Petition is filed challenging the notification issued by the 3rd respondent dated 28.02.2019, wherein and whereby, the devotees of the 3rd respondent-Temple were informed that the Hindu Religious and Charitable Endowments Department has not permitted any private individual or Trust to conduct the Temple festival and to collect funds towards such purpose.

3. The grievance of the petitioner before this Court is that when five trustees are already elected to manage the affairs of the 3rd respondent-Temple, the present impugned notification cannot be issued, thereby, preventing the petitioner from conducting the festival or collecting the fund from the public.

4. On the other hand, it is submitted by the learned Special Government Pleader appearing for the respondents that the 3rd respondent-Temple is under the control of HR&CE Department and an Executive Officer has also been appointed, who is now, managing the affairs of the temple. It is further stated by the learned Special Government Pleader that the very same petitioner filed a petition under Section 64(1) of HR&CE Act on 26.11.2018 in O.A.No.1 of 2019 for framing a scheme for the 3rd respondent-Temple and the said application is still pending before the 2nd respondent. Therefore, it is contended that when the very application seeking for recognition of the petitioner as trustee itself is still pending, the petitioner is not entitled to question the public notification issued by the 3rd respondent-Executive Officer.

5. Perusal of the materials placed before this Court would show that the very same petitioner has already approached the 3rd respondent and filed O.A.No.1 of 2019 seeking for the relief as stated supra. Unless and until, the said Original Application is disposed of, the petitioner is not entitled to question the notification issued by the 3rd respondent. Whether the

petitioner is entitled to the relief as sought for in the above Original Application or not, is purely a question, which has to be considered and decided only by the 2nd respondent on merits and in accordance with law, as this Court is not expressing any view on the merits of the matter.

6. Accordingly, this Writ Petition is disposed of, only with a direction to the 2nd respondent to consider the above Original Application filed by the petitioner and pass appropriate orders on the same on merits and in accordance with law after giving due opportunity of hearing to all the parties concerned. Such exercise shall be done by the 2nd respondent within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

sni/mk

To

1. The Commissioner,
HR&CE Nungambakkam,
Chennai-34.
2. The Joint Commissioner,
HR&CE Nungambakkam, Chennai-34.
3. The Executive Officer,
Sarva Sakthi Mariamman Temple,
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(having office at Sundaraja Perumal
and Anjaneya Swamy Temple.
32, Alathur Subramania Street,
Choolai, Chennai-112.

+1cc to Mr.S.Pon Jeganathan, Advocate, S.R.No. 26113
+1cc to the Government Pleader, S.R.No. 27686

W.P.No.8165 of 2019

SR(CO)
GN(24/04/2019)