

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/7/2019

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.21645 of 2019

R.Govindasamy

...Petitioner

Vs

1. The Chief Secretary
Secretariat
Puducherry.

2. The Director General of Police
Beach Road
Puducherry.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of mandamus to direct the respondents to constitute a Special Investigation Team to investigate the accountability of idols, other movable and immovable properties belong to all the Hindu temples, situated at Puducherry Union Territory, by considering the petitioner's representation dated 16/11/2018.

For Petitioner ... Mr.G.Pugazhenth

For Respondents ... Mrs.Usha
Additional Government Pleader
for R.R.1 and 2

O R D E R

(Order of the Court was made by Subramonium Prasad, J)

Petitioner is a devotee and Kattalaitharar of Varasithi Vinayagar Thevasthanam's temple Sri Vadapathra Kaliyamman temple, situated at Thengaithittu, Puducherry, has filed the instant writ petition, for a mandamus, to direct the Chief Secretary, Secretariate, Puducherry and the Director General of Police, Beach Road, Puducherry, respondents 1 and 2 respectively, to constitute a Special Investigation Team, to investigate the accountability of idols, other movable and

immovable properties belong to all the Hindu temples, situated at Puducherry Union Territory, by considering the petitioner's representation, dated 16/11/2018.

2. Petitioner states that Sri Vadapathra Kaliyamman temple, situated at Thengaithittu, Puducherry, is controlled and administered by Arulmighu Sri Varasithi Vinayagar Devasthanam, Thengaithittu. About 200 temples are situated at Puducherry Union Territory and the temples are controlled and administered by Board of Trustees appointed by the Commissioner of Hindu Religious Institutions. Functions are celebrated in temples and huge amount of money is collected in the name of donation and being spent without there being any proper accounts. He has sought for information, regarding collection and expenditure, but not been furnished.

3. Material on record shows that the petitioner has filed Writ Petition No.9646 of 2011, for taking action against the respondents 5 to 11 therein, for misappropriation of temple money, on the basis of the proceeding of the Commissioner, Hindu Religious Institutions, Puducherry. This Court, by an order, dated 20/4/2011, directed the Commissioner, Hindu Religious Institutions, Puducherry, to consider the representation of the petitioner and take appropriate action. On 18/11/2011, an enquiry was conducted, under Section 3 (A) of the Puducherry Hindu Religious Institutions Act, 1972 and order passed, reads as under:-

"a. The cultivating lands belong to Arulmighu Varasithi Vinayagar Devasthanam, Thengaithittu, shall be brought into public auction.

b. Since the collection donations from the public for the celebrations of festivals in respective temples by all the festival Committees, functioning in the subsidiary temples, falling within the aforesaid Devasthanam, has to be regularised, the aforesaid festival Committee shall hand over the details relating to the collection donation from the public of the place for every festival, the expenditure incurred thereof, the reserve amount, to the Board of Trustees, within one month after each and every festival is over. The Board of Trustees shall settle the aforesaid income/expenses with their account of income/expenses and deposit the balance amount in a bank account separately, without utilizing that amount for any other purpose, hand over the said amount to the respective festival committee next year at the time when that festival ensues, receive the receipt of acknowledgment and again obtain the accounts of income/expenses.

(c). The festival committee of Sree Vadapathira Kalliamman temple, the subsidiary temple of the aforesaid Devasthanam shall hand over the balance amount, Rs.2,13,264/- for the year 2010, along with the balance amount of Rs.1,88,256/- with details of income/expenses for its 44th Chitra Pournami Full Moon Festival (2009) to the Board of Trustee, within a period of one week, from the date of receipt of this order. Further, the accounts of income and expenses for Chitra Pournami (Full moon) festival for the year 2011 shall be handed over to the Board of Trustees, along with the balance amount within a period of one week, from the date of receipt of this order.

(d). Besides, all the festival Committees, functioning in all the subsidiary temples, falling with the aforesaid Devasthanam, shall handover the accounts of income and expenses collected from the public and the balance amount to the Board of Trustees within a week from the date of receipt of this order.

(e). The Board of Trustees is instructed to inform the undersigned, instantaneously, about all the actions taken with regard to the aforesaid order."

4. Petitioner further states that misappropriation of funds still continue and despite the fact that he has sent a number of representations to take action, no action has been taken. Being aggrieved, petitioner herein filed Criminal Original Petition No.2456 of 2015, to direct the Sub-Inspector of Police, Mudhaliyarpet Police Station, Puducherry, to register a case, on the complaint, dated 27/12/2014, investigate the same and to file report. This Court, vide, order, dated 11/3/2015, passed the following order:-

"Considering the allegations made in the complaint and in view of the dictum laid down by the Hon'ble Apex Court in Lalita Kumari Vs Government of Uttar Pradesh & Others, reported in {2013 (4) Crimes 243 (SC)}, which has to be followed in letter and spirit viz., that if a cognisable offence is made out, the respondent-Police is duty bound to register a case, this Criminal Original Petition is disposed of by directing the second respondent to register a case on the basis of the petitioner's complaint, dated 27/12/2014 and investigate the same in accordance with law.

5. Petitioner further states that he has lodged a complaint, before Mudhaliyarpet Police Station, and a case in Crime No.24 of 2015 was registered, on 4/4/2015, for the offence punishable under Sections 403, 406, 465, 471, 420 and 468 of IPC

r/w. 149 IPC. It is the grievance of the petitioner that despite repeated complaints, no action has been taken. In these circumstances, petitioner has come forward with the present writ petition praying for the relief as stated therein.

6. Heard Mr.G.Pugazhenthii, learned counsel for the petitioner and Mrs.Usha, learned Additional Government Pleader (Pondicherry) for the respondents.

7. Other than a bald averment that gold ornaments, movable and immovable properties are not properly maintained by the authorities and there are possibilities of theft of idols as well, no material has been produced before us to show as to why a special investigation team should be constituted for this purpose. On the other hand, material on record shows that petitioner is repeatedly approaching this Court, for initiating action against the respondents. In fact, writ petition No.23990 of 2015, has been filed to direct the Chief Secretary, Secretariat, Puducherry, second respondent, to take appropriate legal action against Thillaivel and Rajesh, respondents 3 and 4 respectively, for their alleged act of dereliction of duty, by considering the petitioner's representation, dated 16/6/2015. This Court, by an order, dated 6/8/2015, passed the following order:-

"The respondent Department is already in seizin of the issue, which is sought to be raised by the petitioner and even conducted enquiry in respect of accounts. Some directions are also passed in earlier proceedings initiated by the petitioner, but he wants to supervise the investigation which is not possible.

2. We expect the authorities concerned to take action in accordance with law to bring in accountability in respect of the persons who are maintaining the funds and ensure that the functions are organised properly.

3. The writ petition accordingly stands disposed of. No costs."

8. Material on record shows that First information Report has been registered on the complaint of the petitioner and that Government of Puducherry have given instructions, to the Deputy Director of Accounts & Treasuries, Temple Audit Wing, Directorate of Accounts and Treasuries, Puducherry, on 9/5/2018, to conduct audit of the temples. State Government is already seizing of the matter, as observed by this Court, in W.P.No.23990 of 2015. This Court has observed that petitioner

wants to supervise the investigation, which is not possible. Material on record shows that the State Government is taking steps, on the issues raised by the petitioner.

9. In view of the above, we do not find any reason or any material to come to a conclusion that State Government is not acting, on the representation of the petitioner. Courts cannot make roving enquiries on the apprehensions and unsubstantiated allegations. Prayer sought for in the instant writ petition cannot be granted and hence the same is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Chief Secretary,
Secretariat
Puducherry.
2. The Director General of Police,
Beach Road, Puducherry.

+1 cc to Mr.G.Pugalenthil, Advocate, S.R.No.63204

Writ Petition No.21645 of 2019

RGN(CO)
SSM(09/09/2019)

सत्यमेव जयते

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