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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.8153 of 2019

and

W.M.P. (MD) No.6410 of 2019

R.Soundarapandi

... Petitioner

Vs

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dindigul.

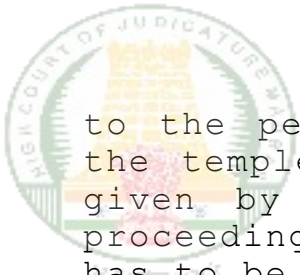
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.No.1720-1/2013/A3 dated 20.03.2019 and quash the same.

For Petitioner : Mr.S.Madhavan
For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The second respondent herein earlier passed an order dated 16.05.2013 appointing a fit person for Arulmigu.Varatharaja Perumal Temple, Kachavanampatti, Aathur Taluk, Dindigul District. The writ petitioner herein filed R.P.No.1 of 2013 before the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Madurai, questioning the same. By order dated 22.03,2018, R.P.No.1 of 2013 filed by the writ petitioner was allowed. The ground on which, the said petition was allowed was that the petitioner was not put on notice before appointing a fit person. Thereafter the second respondent herein issued the impugned notice, dated 20.03.2019, calling upon the writ petitioner to appear for enquiry with regard to appointment of a fit person. This notice is questioned by the writ petitioner principally on the ground that an erroneous recital appears in the impugned notice. In the impugned notice, it has been mentioned that the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Madurai, has ordered that after notice



to the petitioner herein a fit person must be appointed for the temple in question. In fact no such direction has been given by the first respondent. The second respondent is proceeding on a misconception. Therefore the impugned notice has to be clarified to this limited extent.

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2. When an administrative proceeding is set aside on the ground of violation of principles of justice, in the very nature of things, the authority who issued the order is having liberty to initiate fresh proceedings. That is what the second respondent has done. Therefore I am not inclined to restrain the second respondent herein from proceeding further. However, it has to be clarified that the first respondent has not given any positive direction for appointment of a fit person.

3. It is made clear that this Court has not pronounced anything on the merits of the matter. It is always open to the petitioner to place all the materials in support of his contention before the second respondent. The second respondent will conduct a proper enquiry and passes orders in accordance with law. The second respondent will have to approach the issue with an open mind and there cannot be any predetermination. At this stage, the learned counsel appearing for writ petitioner stated that he had already moved the higher authority seeking the transfer of proceedings. It is always open to the higher authority to deal with the same in accordance with law. The dismissal of this writ petition will not come in the way of the writ petitioner from seeking transfer of the proceedings pending before the second respondent.

4. With this observation and clarification, this Writ Petition is dismissed. No costs. Consequently, connection miscellaneous petition is closed.

Sd/-

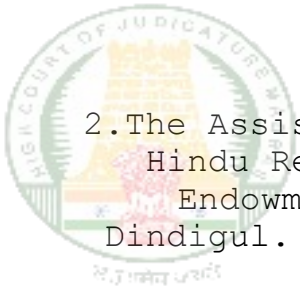
Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To:

1. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai.



2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Dindigul.

+1cc to Mr.S.Madhavan, Advocate, SR.No.59644

+1cc to M/s.Special Government Pleader,SR.No.59666

W.P. (MD) No.8153 of 2019
05.04.2019

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