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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.879 OF 2015

Sri Vaithinathaswamy Thirukoil,
Employees Welfare Association,
Represented by its President Mr.Rajagopal,

.. Petitioner

Vs

1. The Commissioner,
Tamilnadu Hindu Religious Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Tamilnadu Hindu Religious Charitable Endowments Department,
Pattamangala Street,
Mayiladuthurai,
Nagapattinam District.
3. Sri-la-Sri Gurumaha Sannithanam of
Dharmapuram Adheenam,
Hereditary Trustee,
Arulmigu Vaithianathaswamy Devasthanam,
Vaitheeswarankoil,
Sirkazhi Taluk, Nagapattinam District.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 & 2 to consider the representation of the petitioner dated 18.09.2014 and to take appropriate action against the 3rd respondent under Section 53(2)(c) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 for disobeying the orders of the second respondent passed in Na.Ka.No.2884/2014/Aa2, dated 11.08.2014.

For Petitioner : Mr.S.Doraisamy

For RR 1&2 : Mr.M.Karthikeyan
Special Government Pleader

For R3 : Mr.S.Sounthar



ORDER

This writ petition has been filed by the writ petitioner for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the representation of the petitioner, dated 18.09.2014 and to take appropriate action against the 3rd respondent under Section 53(2)(c) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for disobeying the orders of the second respondent passed in Na.Ka.No.2884/2014/Aa2, dated 11.08.2014.

2. It is the case of the petitioner that it is an Association registered under the Societies Registration Act. The above Association was formed for the welfare of the employees of the Arulmighu Vaithianathaswamy Temple. The said Temple is under the control of the respondents 1 and 2 and the third respondent is the Hereditary Trustee of the Temple. As per the schedule, there should be 162 servants serving in various capacities in the Temple, out of which, only 55 of them were brought under regular pay of scale and 35 are working under consolidated pay and 72 posts are kept vacant. Hence, earlier the Sri Vaithinathaswamy Thirukoil Archakarkal Association filed a writ petition in W.P.No.21916 of 2009 for fixation of pay to the Archakas and other servants. Subsequently, the first respondent passed an order fixing the scale of pay. Aggrieved by the same, the third respondent filed a writ petition in W.P.No.1465 of 2011. Both the writ petitions were heard together and disposed of, directing the second respondent to fix the scale of pay to the Temple employees. Thereafter, the second respondent passed an order on 03.05.2012 by applying the Government Order in G.O.Ms.No.257, which was challenged by the third respondent in W.P.Nos.13918 and 13919 of 2012. Thereafter, this Court passed an order dated 10.10.2012 holding that the said G.O.Ms.No.257 as unlawful and directing the third respondent to submit a revised schedule relating to the pay and emoluments of the servants of the Temple within a period of six weeks and thereafter, the second respondent shall pass an order as required under Rule 14 of the Tamil Nadu Hindu Religious Institutions (Officers and Servants) Services Rules, 1964. In the meanwhile, the Government passed an order on 13.06.2014 in G.O.Ms.No.98, Tourism, Culture and Religious Endowments Department, declaring the Temple as a Senior Grade Temple. However, 72 vacancies were not filled up and the basic pay and dearness allowance of the employees were not increased and the benefits available for the servants of the Senior Grade Temple were not extended to the employees of the Temple. Hence, the petitioner-Association made a representation to the second respondent on 05.08.2014 requesting him to direct the third respondent to fill up the said 72 vacancies and increase the emoluments to the employees and also to extend the benefits



available for the servants of the Senior Grade Temple. Thereafter, the second respondent passed an order on 11.08.2014, directing the third respondent to fill up the said 72 vacancies and to increase the emoluments. However, the third respondent did not obey the orders of the second respondent. Section 27 of the said Act states that the Trustee of a religious institution shall be bound to obey all lawful orders issued by the Government, the Commissioner, Joint Commissioner and Deputy Commissioner. However, the third respondent being the Trustee of the Temple disobeyed the orders of the second respondent. Section 53(2)(c) of the Act empowers the second respondent to take appropriate action, either to suspend or remove or dismiss the Trustee, if he disobeys the lawful orders issued by the second respondent. However, the third respondent has deliberately disobeyed the earlier order of the second respondent issued on 11.08.2014. Thereafter, the writ petitioner made a representation to the first respondent on 18.09.2014 stating that the third respondent is continuously disobeying the orders of the authorities and requested the first respondent to take appropriate action as provided under the provisions of the said Act. But the first respondent did not take any action against the third respondent so far. Hence, the petitioner has come forward with the present writ petition for the relief stated supra.

3. The learned counsel appearing for the third respondent submitted the present writ petition filed by the writ petitioner-Association, is not sustainable either in law or on facts. In the earlier round of litigations filed in W.P.Nos.13918 and 13919 of 2012, the petitioner-Association has not been impleaded.

4. Heard both sides and perused the materials available on record.

5. In the light of the aforesaid facts submitted by the learned counsel for the petitioner as well as the learned counsel appearing for the third respondent and as the petitioner-Association herein prayed to take action against the third respondent, namely [Sri-la-Sri Gurumaha Sannithanam of Dharmapuram Adheenam, Hereditary Trustee], who in the meanwhile, passed away on 06.12.2019, the prayer of the writ petitioner-Association to take action against the third respondent is not sustainable and the same is liable to be rejected.

6. Insofar as prayer to re-fix the scale of pay of the Temple-employees is concerned, it is hereby directed that individual employees shall make a request before the authority concerned to seek their remedy, in the light of the order in Na.Ka.No.2884/2014/Aa2, dated 11.08.2014 passed by the second



respondent-Joint Commissioner,H.R&C.E Department, Mayiladuthurai.

7. With the above observations, the writ petition is dismissed. No costs.

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Sd/-
Assistant Registrar(Writ)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Commissioner,
Tamilnadu Hindu Religious Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Tamilnadu Hindu Religious Charitable Endowments Department,
Pattamangala Street, Mayiladuthurai,Nagapattinam District.
3. Sri-la-Sri Gurumaha Sannithanam of
Dharmapuram Adheenam, Hereditary Trustee,
Arulmigu Vaithianathaswamy Devasthanam,
Vaitheeswarankoil, Sirkazhi Taluk, Nagapattinam District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.2287

+1cc to Mr.S.Sounthar, Advocate, S.R.No.2481

+1cc to the Special Government Pleader (HR & CE), S.R.No.2923

W.P.No.879 of 2015

VD(CO)
CS/08/07/2020