



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7369 of 2020

and

W.M.P.(MD)No.6816 of 2020

WEB COPY

Thiru.Soma Somasundaram
Hereditary Trustee,
Sri Sundaraswamigal Athishtanam,
Arimalam,
Thirumayam Taluk,
Pudukkottai District.

...Petitioner

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable and Endowments Department,
Pudukottai.
- 4.The Executive Officer,
Arulmigu Muthumariamman Temple,
Konnaiyur.

...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 show cause notice in Na.Ka.No.1867/2020/A1, dated 22.06.2020 issued by the third respondent and quash the same as illegal.

For Petitioner : Mr.S.Parthasarathy
for Mr.S.Manikandan

For R1 to R3 : Mr.VR.Shanmuganathan
Special Government Pleader

For R4 : Mr.G.Madhavan

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3.



2.The petitioner is a hereditary trustee of the petition mentioned religious institution. The petitioner is said to have distributed food (Annathanam) on 03.06.2020. The fourth respondent herein had taken exception to the aforesaid charitable act done by the petitioner herein. He had sent a letter dated 12.06.2020 in this regard. According to the Executive Officer, the action of the petitioner herein was in violation of the lock down conditions imposed by the District Administration. The complaint of the Executive Officer has been taken cognizance by the third respondent who had initiated action against the petitioner herein by issuing the impugned communication dated 22.06.2020. The petitioner was directed to appear before the third respondent and offer his explanation. This is put to challenge in this writ petition.

3.The learned Special Government Pleader argued that the petitioner has after all been issued with only a notice and therefore, he can as well respond to the same and that the writ Court may not interfere at this stage.

4.The objection raised by the Special Government Pleader would normally have been sustained and upheld by me. But in the case on hand, the issue is something different.

5.The petitioner's counsel pointed out that even according to the impugned notice, the institution in question was included in the list published under Section 46(i) of the Tamilnadu Hindu Religious and Charitable Endowment Act, 1959. The third respondent has also invoked only Section 53(1)(C) of the Act. Section 53(1)(C) of the Act clearly states that the Authority competent to initiate action against the hereditary trustee would be a Joint/Deputy Commissioner. In this case, the notice has been issued not by the Authority referred in Section 53(1)(C) of the Act but by the Assistant Commissioner.

6. Therefore, I have to necessarily uphold the contention raised by the petitioner's counsel. The order impugned in the writ petition is therefore quashed as lacking in jurisdiction. The Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmi

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Commissioner,
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Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy.

3.The Assistant Commissioner,
Hindu Religious and Charitable and Endowments Department,
Pudukottai.

W.P. (MD)No.7369 of 2020
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KB(21.07.2020) 3P 4C