



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.07.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.8287 of 2020

A.Ravichandran

...Petitioner

-Vs-

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

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

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Paramakudi,
Ramanathapuram District.

4.M.Venkatesan Chettiar,
The Hereditary Trustee,
Arulmigu Muthumariyamman Thirukoil,
Thayamangalam,
Ilayangudi Taluk,
Sivagangai District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the second respondent to transfer Appeal filed by the petitioner dated 03.07.2020 on the file of the second respondent to the first respondent and direct the first respondent to dispose the said Appeal within the stipulated time.

For Petitioner	: Mr.V.Kannan
For R1 to R3	: Mr.VR.Shanmuganathan, Special Government Pleader
For R4	: Mr.T.S.Mohamed Mohideen

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the second respondent to transfer the Appeal filed by the petitioner dated 03.07.2020 on the file of the second respondent to the first respondent and direct the first respondent to dispose the said Appeal within the stipulated time.



2. The petitioner was working as a Watchman in the fourth respondent Temple against whom a disciplinary proceedings was initiated, which ended in punishment by order of the fourth respondent, dated 22.06.2020, whereby the petitioner has been removed from service. As against the said order of punishment, the petitioner preferred an appeal before the second respondent on 03.07.2020 and the said appeal even though has been returned by the second respondent vide his proceedings dated 14.07.2020 for rectification of certain mistakes, still the petitioner has got a grievance that, the said appeal shall not be heard by the second respondent, instead, the appeal can be transferred to the first respondent i.e., Joint Commissioner, Hindu Religious and Charitable Endowments Departments, Madurai, therefore, in order to get the transfer, he filed this writ petition with the aforesaid prayer.

3. I have heard Mr.V.Kannan, learned counsel appearing for the petitioner, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3 as well as Mr.T.S.Mohamed Mohideen, learned counsel appearing for the fourth respondent.

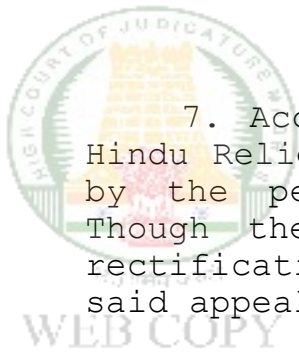
4. The petitioner being an employee of the fourth respondent temple has been subjected to disciplinary proceedings, which culminated in the order of dismissal dated 22.06.2020, which is the subject matter before the appellate authority.

5. In this context, Section 56 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 can be usefully referred to herein, which reads thus:-

"56. Punishment of office-holders and servants in religious institutions:- (1) All office-holders and servants attached to a religious institution or in receipt of any emolument therefrom shall be controlled by the trustee and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.

(2) Any office-holder or servant punished by a trustee under sub-section (1) may within one month from the date of the receipt of the order by him, appeal against the order to the [Joint Commissioner or the Deputy Commissioner as the case may be].

6. As per Section 56(2) of the said Act, any office-holder or servant punished by a trustee under sub-section (1) can prefer an appeal within one month time to the Joint Commissioner or the Deputy Commissioner, as the case may be.



7. Accordingly, the present appeal under Section 56(2) of the Hindu Religious and Charitable Endowments Act, 1959 has been filed by the petitioner on 03.07.2020 before the second respondent. Though the second respondent has returned the said appeal for rectification of certain mistakes, still the petitioner wants the said appeal to be transferred to the first respondent.

8. In this context, it is further to be noted that, on reading the prayer sought for in the appeal dated 03.07.2020, this Court finds that, in the appeal prayer Land Administrative Commissioner of Government of Tamil Nadu has been requested to call for the records relating to the order of dismissal passed by the fourth respondent dated 22.06.2020 and to quash the same. To appreciate the said aspects, the prayer sought for in the said appeal is extracted hereunder:-

"Under these circumstances it is prayed that this Hon'ble Land Administrative Commissioner to call for the records relating to the order dismissal order passed in Se.Mu.Na.Ka.No.1/2020 dated 22.06.2020 on the file of the respondent and quash the same and pass such further or other orders and thus render justice.

Dated at Chennai this the 3rd day of July 2020."

9. Therefore *prima facie*, the said prayer cannot be sustained as the appeal lies only before the Joint Commissioner or the Deputy Commissioner as the case may be under Section 56 of the HR & CE Act and not before the Land Commissioner. Therefore, this mistake has to be first rectified by the petitioner.

10. Insofar as the transfer of appeal is concerned, this Court in exercise of the power under Article 226 of the Constitution of India cannot be converted to exercising the jurisdiction of transfer power for transferring the quasi judicial proceedings from one forum to another forum. Moreover, no infirmity has been projected by the petitioner before this Court to have such an indulgence in extraordinary or special circumstances to invoke the power under Article 226 of the Constitution of India.

11. In that view of the matter, this Court is not accepting the prayer sought for by the petitioner, however, gives liberty to the petitioner to approach the Commissioner of Hindu Religious and Charitable Endowments Act, 1959 before whom, it is open to the petitioner to make any request to transfer his appeal dated 03.07.2020 from second respondent to first respondent or any other authority functioning under HR & CE Commissioner under the provisions of the HR & CE Act.



12. With these observations, this writ petition is dismissed.
No Costs.

Sd/-

Deputy Registrar

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/ /2020

Sub Assistant Registrar(CS)

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.

To

1.The Joint Commissioner,
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3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
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Ramanathapuram District.

+1 CC to M/s.T.S. MOHAMED MOHIDHEEN, Advocate (SR-13369[F] dated 30/07/2020)

W.P. (MD)No.8287 of 2020

29.07.2020

am

Kv(21.08.2020) 4P 5C