



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.14561 of 2019

and

W.M.P. (MD)Nos.11013 and 11014 of 2019

WEB COPY

T.Mani

... Petitioner

Vs.

1.The Joint Commissioner,
H.R. & C.E. Department,
Madurai.

2.The Executive Officer,
Arulmigu Gobinatha Swamy Thirukovil,
Reddiyar Chathiram,
Dindigul West Taluk,
Dindigul District.

3.V.Balakrishnan

4.K.Gopi

... Respondents

(R4 is impleaded vide Court order dated
28.08.2020 in W.M.P. (MD)No.14603 of 2019 in
W.P. (MD)No.14561 of 2019)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order in Se.Mu.Na.Ka.No.7048/2018 A4 dated 27.05.2019 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.R.Murugaraj,
Additional Govt. Pleader for R1
Mr.M.Muthugeethayan for R2
Mr.T.Lenin Kumar for R4

O R D E R

Heard the learned counsel on either side.

2.Arulmigu Santha Kula Somya Narayana Kavara Samuthaya Kattalai is an endowment. A scheme was framed for its administration in O.A.No.336 of 1939, dated 16.04.1941. It was modified in O.A.No.43 of 1984. It contemplates a three member board. Election was conducted in September, 2017 and the three member board was constituted. The petitioner was chosen as the chairman of the board of trustees. Order to this effect was issued by the Joint



Commissioner, Hindu Religious and Charitable Endowment, Madurai, on 23.10.2017. Vide order dated 27.05.2019, fit person was appointed for the endowment. It is this that is challenged in this writ petition.

3.It is not in dispute that before passing the order appointing a fit person, the petitioner was not put on notice. The three member board included one Balakrishnan. The department issued notice to the said Balakrishnan. The writ petitioner was kept in the dark. Therefore, on the very face of it, violation of the principles of justice is evident. When there is a duly elected board of trustees and it is also headed by the chairman, without notice to him, fit person could not have been appointed. The petitioner was not put on notice. Therefore, on this ground, I quash the impugned order. The impugned order is quashed.

4.But the petitioner namely., T.Mani cannot rather re-occupy his earlier position straightaway. This is because he was elected only for a period of two years. The said period had already expired. Though I have quashed order appointing a fit person, he will necessarily have to continue to be in charge. This is because there cannot be any vacuum in the administration. I have given direction in the other writ petition for early constitution of the Board. Till then, the fit person will continue to be in charge.

5.The writ petition is allowed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

6.It is seen that during the intervening period, the petitioner spent his money for conducting the festival. In fact, the petitioner was managing the affairs along with the fit person till now. I permit the petitioner/T.Mani to place the accounts before the fit person. On being satisfied that the accounts are in order, the fit person can withdraw the money from the bank account of the endowment and reimburse T.Mani/petitioner herein. This shall be done as soon as possible. W.M.P.(MD)No.19688 of 2019 is allowed accordingly.

Sd/-

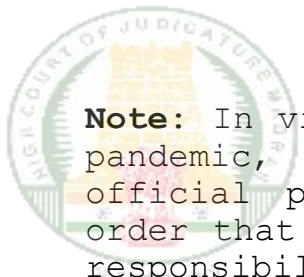
Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

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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.

WEB COPY

To

The Joint Commissioner,
H.R. & C.E. Department,
Madurai

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-15377[F] dated 31/08/2020)

+1 CC to M/s.GP (SR-15513[F] dated 01/09/2020)

W.P. (MD) No.14561 of 2019

28.08.2020

(2/4)

SCR(CO)
AP(25/09/2020) 3P 4C