



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.16487 of 2020

and

W.M.P. (MD) .No.13782 of 2020

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M.Kasirajan,
Hereditary Trustee,
Arulmighu Angalamman Parameswari Amman Thirukkivil,
Kannanur, Thuraiyur Taluk,
Trichy District. ... Petitioner

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Trichy.
- 3.The Executive Officer,
Arulmighu Angalamman Parameswari Amman Thirukkivil,
Kannanur, Thuraiyur Taluk,
Trichy District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the second respondent in Na.Ka.No.10749/2015 A1 dated 19.10.2020 and quash the same as illegal and consequently directing the respondents to reinstate the petitioner as Hereditary Trustee of Arulmighu Angalamman Parameswari Amman Thirukovil, Kannanur, Thuraiyur, Trichy District.

For Petitioner : Mr.B.Jameel Arasu

For R-1 & R-2 : Mr.K.P.Narayana Kumar
Special Government Pleader

For R-3 : Mr.S.Manohar
Standing Counsel

ORDER

(This Petition was heard through the Video Conferencing)

This writ petition has been filed challenging the order dated 19.10.2020 passed by the second respondent under Section 53 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as "the Act"), suspending the petitioner as a Hereditary Trustee of Arulmighu Angala Parameswari Amman



Thirukovil, Kannanur, Thuraiyur, Trichy District.

2. Mr.K.P.Narayana Kumar, learned Special Government Pleader, accepts notice on behalf of the respondents 1 and 2 and Mr.S.Manohar, learned Standing Counsel, accepts notice on behalf of the third respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard Mr.B.Jameel Arasu, learned counsel for the petitioner, Mr.K.P.Narayana Kumar, learned Special Government Pleader for the respondents 1 and 2 and Mr.S.Manohar, learned Standing Counsel for the third respondent.

4. It is the case of the petitioner that without notice to him the impugned order has been passed, suspending him, as a Hereditary Trustee, is in clear violation of Section 53 (3) of the Act. According to the petitioner, he has been the Hereditary Trustee for the past twenty five years. It is also the case of the petitioner that seven out of nine charges framed against the petitioner were dropped by the respondents as early as in the year 2015 itself and despite the same, the respondents have suspended the petitioner on charges which include those seven charges, that were dropped in the year 2015. In such circumstances, this Writ Petition has been filed.

5. The learned counsel appearing for the petitioner drew the attention of this Court to Section 53 (3) of the Act and would submit that, in clear violation of Section 53 (3) of the Act, the impugned order has been passed, suspending the petitioner as a Hereditary Trustee of the fourth respondent Temple.

6. On the contrary, Mr.S.Manohar, learned counsel appearing for the third respondent would submit that the suspension order has been passed against the petitioner only pending disposal of the charges framed against him and it is not a final order. According to him, the Writ Petition filed by the petitioner is premature.

7. Sections 53 (3) and 53 (4) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, reads as follows:-

"53(1)...

53(2)...

Section 53.(3).When it is proposed to take action under Sub-Section (2), the appropriate authority shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with reasons therefor.



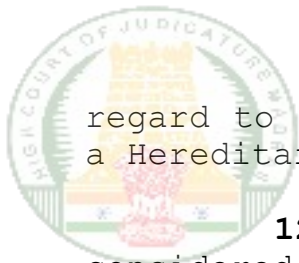
4. Pending the disposal of the charges framed against the trustee, the appropriate authority may place the trustee under suspension and appoint a fit person to discharge the duties and perform the functions of the trustee."

8. As rightly contented by the learned counsel appearing for the petitioner before passing the suspension order under Section 53 (3) of the Act, the petitioner ought to have been given an opportunity of meeting of charges framed against him by the respondents.

9. This Court has perused and examined the impugned order suspending the petitioner as the Hereditary Trustee of the third respondent / Temple.

10. As seen from the impugned order, it is clear that the petitioner has not been given any opportunity to put forward his explanation with regard to charges framed against him, which resulted in passing of the impugned order, suspending him as a Hereditary Trustee. Even though the learned counsel appearing for the third respondent would submit that the notice was given to the petitioner before passing of the impugned order, the same is not reflected in the impugned order. The impugned order has considered certain proceedings which are reflected in the beginning of the impugned order. None of the proceedings referred to any notice having been given to the petitioner after framing of the charges. Therefore, the contention of the petitioner that no notice was given to the petitioner will have to be necessarily accepted by this Court.

11. In so far as the contention of the learned counsel appearing for the respondents that the impugned suspension order passed by the second respondent is not a final order, since the said order has been passed pending disposal of the charges framed against the petitioner as per Section 53 (4) of the Act is concerned, the same cannot be accepted in view of the fact that Sub Section 3 of Section 53 of the Act starts with the sentence "when it is proposed to take action". Therefore, even there is any proposal to take action for suspending the Hereditary Trustee, he must be given an opportunity by seeking for an explanation from him with regard to the charges levelled against him. Sub Section 4 of Section 53 of the Act comes only after Sub Section 3 of Section 53 of the Act and therefore, the second respondent will have to necessarily satisfy the requirements of Sub Section (4) of Section 53 of the Act by giving an opportunity to the petitioner to give his explanation with regard to the charges framed against him. In the case on hand, as observed earlier, the impugned order does not reveal the fact that the petitioner was given an opportunity to give his explanation with



regard to the charges framed by the respondents for removing him as a Hereditary Trustee of the third respondent Temple.

12. For the foregoing reasons, this Court is of the considered view that the impugned order has been passed against the petitioner by not adhering to the procedure contemplated under Section 53 (3) of the Act and hence it is in clear violation of the principles of natural justice.

13. In the result, the impugned order passed by the second respondent in Na.Ka.No.10749/2015 A1, dated 19.10.2020 against the petitioner, is hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders after hearing the petitioner, including granting him the right of personal hearing, within a period of eight (8) weeks from the date of receipt of a copy of this order.

14. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

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/ /2020

Sub Assistant Registrar(CS)

tsg

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 Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Trichy.
- 3.The Executive Officer,
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Kannanur, Thuraiyur Taluk,
Trichy District.



W.P.(MD)No.16487 of 2020

+1 CC to M/s.S,MANOHAR, Advocate (SR-22778[F] dated 26/11/2020)

+1 CC to M/s.GP (SR-22991[F] dated 26/11/2020)

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