



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) .No.17198 of 2020

Saravanan, Male/ Aged 38 years,
S/o.Thiru T.Sekaran,
No.2-736, Vatti Pillaiyar Koil,
Anandha Nagar,
Kumbakonam Taluk,
Thanjavur District.

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai 600 009.

2.The Commissioner,
Hindu Religions and Charitable Endowment Board,
119, Uthamar Gandhi Salai,
Nungambakka, Chennai 600 034.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 2nd respondent to consider the representation dated 19.10.2020 and direct the 2nd respondent to streamline the employment of the indoor and outdoor servants of the Hindu Religious Charitable and Endowment.

For Petitioner : Mr.V.Chellappa

For Respondents : Mr.K.P.Narayana Kumar
Special Government Pleader

O R D E R

(Order of the Court was made by N.KIRUBAKARAN, J)

The petitioner has come before this court, seeking Writ of Mandamus to streamline the employment of the indoor and outdoor servants of Hindu religious and charitable endowment.



2. According to the petitioner the 2nd respondent/Commissioner of Hindu Religions and Charitable Endowment Board was established with the object of supervising the temples and charitable endowments and administer the affairs and prevent the exploitation of temple assets by others. According to him the 2nd respondent is administering about 40000 temples which owned about 4.78 lakhs acres of lands, consisting of Nanja and Punja throughout the State. Most of the properties are under the occupation of lessee under rent.

2. As per Section 46 of the Hindu Religious and Charitable Endowments Act, 1959, the 2nd respondent vested with statutory power to categorise the religious institutions into three categories based on its annual income. To manage the affairs, the 2nd respondent is appointing the required number of work force in each and every temple. To the temples having annual income of more than Rs.10 lakhs, two kinds of servants viz., indoor/உள்நுழை and outdoor/ வெள்துறை servants to these temples. The outdoor servants have been defined under Section 2(d) of the Act and are appointed to the temple having annual income of more than Rs.10 lakhs, to aid the administration of the temple affairs including collection of rent from the leased out properties, manage with the properties of the temple at ground level. Those outdoor servants often collude with local politicians, influenced persons and lessees of the temple properties and are allegedly indulging in various illegal acts and not taking action against the those lessees who failed to pay rent. By not taking action against the defaulters and encroachers of the temple properties, huge revenue loss is caused to the temples and no responsibility is fixed on the outdoor servants.

3. Moreover there are no promotions available for them and they are not controlled by the respondents. They are rarely being transferred to other religious institutions. Though under Rule 17 of Tamil Nadu Hindu Religious Institution Employees (Condition of Service) Rules, 2020, authorises the authorities to transfer the outdoor servants, due to influence the said power is not exercised. Without transfer, allowing the servants to serve in the same place for years together give room for commission of malpractice like misappropriation and non action on defaulters and encroachers causing huge loss and therefore, in this regard the petitioner has given a detailed representation on 19.10.2020.

4. The petitioner gave representation on 19.10.2020, requesting the respondents to transfer the outdoor servants regularly on every three years like other Government servants, fix the responsibility for those outdoor servants and revise the qualification for appointment of outdoor servants and promote them based on their



seniority and extent other benefits available to other temple servants. The said representation though was received by the respondents, till date no order has been passed or no action has been taken based on the representation, which compelling the petitioner to approach this Court by filing this Writ Petition.

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5. Heard Mr.V.Chellappa, learned counsel appearing on behalf of the petitioner and Mr.K.P.Narayana Kumar, learned Special Government Pleader appearing on behalf of HR&CE.

6.No doubt that vast extent of lands as pleaded by the petitioner is owned by the temples in Tamil Nadu. Apart from lands, buildings are also owned by the temples. However, the income from the temple properties is very meager. Even the rents/license fee is not regularly paid by the tenants/license holders. Many temples are struggling to have daily pooja as the lessees are not paying the rents. The situation has to be improved by increasing the rent and regularly collecting the rents from the tenants/license holders. The rent/lessee fee is required to be revised as per the Act on regular basis which is allegedly not done by the authorities causing loss to the institution. The said exercise has to be done by the outdoor servants, who are defined under Section 2(d) of the Act. As per the Act they are bound to perform their duties sincerely. Their role is very important in collection of rent and take action against the defaulters and also against the encroachers to safeguard the temple properties. Very sadly as rightly pointed out by the petitioner, no such action is being taken.

7.It is also pointed out that the outdoor servants are not transferred on regular basis like Government servants, which has give room for corrupt practices as those servants in connivance with the local politicians, influential persons, encroachers and the lessees are not collecting the amount payable to the temples. It is also alleged that the amounts are also being misappropriated. Allowing one person to remain in the same place for years together would not be in the interest of the temple. Therefore, the transfer is necessary.

8.Section 17 of Tamil Nadu Hindu Religious Institution Employees (Condition of Service) Rules, 2020, enables the authorities to transfer the temple employees and Rule 17 is usefully extracted as follows:

"17. Transfers and postings.- (1)The employees of religious institutions may be transferred to the entry level post, from one religious institution to another religious institution having Executive Offi cer of the same grade based on the mutual consent of the Executive



Authorities of the religious institutions, by considering the objections of employees of the said religious institutions and subject to approval by the Commissioner:

Provided that the scale of pay and designation of the post are the same in both the religious institutions.

(2) An employee transferred from one religious institution to another religious institution is entitled for joining time as admissible to Government Servants.

(3) No employee shall be considered for transfer during the period of probation if,

(i) disciplinary action is pending or contemplated against him.

(ii) criminal case is pending or contemplated against him.

(iii) vigilance case is pending or contemplated against him.

(iv) he is undergoing any punishment."

Even Government servants are regularly transferred after three years terms. When the employees of the HR & CE are dealing with the money and vast properties of the temples, they should be transferred on regular basis under Rule 17. That will go in a long way to prevent any malpractices and misuse of temple properties.

9.The outdoor servants post is a statutory post and they are bound to discharge their duties by collecting rent from the lessees regularly and to take action against the defaulters promptly, so that the interest of the temple would be safeguarded. Further, it is known that the temple properties are being encroached upon by powerful persons depriving of the institutions from getting income from those properties. It is the duty of those employees to prevent any encroachment and to take action lawfully by identifying the encroachers by approaching the Court. The higher authorities are duty bound to supervise and keep vigil on the employees to see that whether they are performing their duties properly, any misappropriation in collection of rent and non action against the defaulters and encroachers of the properties. On finding any misdeed by these outdoor servants, immediately, departmental action has to be taken against the concerned employee, who failed to perform his duties. Then only the concerned employees would be afraid of the consequences of non discharging of their duties.

10.Similarly, the employees should also be promoted based on the seniority. Allowing one person to stagnate in the same post will not only be adverse to the interest of the institution, but would also cause frustration to the employee. To avoid such adverse consequences, it is appropriate for the higher officials to maintain seniority list and based on the seniority list to give promotion.



11.The grievances of the petitioner are well founded and he has only brought out what is happening in the religious institutions and misdeeds committed in managing the temple properties and endowments. Though the petitioner has given representation on 19.10.2020, highlighting the above points, instead of directing the authorities to consider and pass orders, on the above representation, positive directions have to be given in the interest of the institution, so that this Court will follow up the matter. Therefore, the following directions are given:

(i) The outdoor servants and other employees of the religious institution are to be transferred on regular basis, preferably after three years in the interest of administration, as per Rule 17 of the Tamil Nadu Hindu Religious Institution Employees (Condition of Service) Rule 2020.

(ii) Action shall be taken against those employees, who fail to discharge their duties like non collection of rent, failure to take action against the defaulters, failure to protect the properties from encroachment and failure to take action against the encroacher to retrieve the properties.

(iii) Promotion is to be given to the outdoor servants as per law based on seniority, if it is permitted by the Act and Rules.

(iv) Report shall be filed before this Court giving

(1) the details of number of proceedings initiated against the employees of the HR&CE including outdoor servants for not safeguarding the properties of religious institutions for the past 10 years,

(2) stage of the proceedings and number of proceedings initiated against the defaulters in payment of rent for the past 10 years,

(3) action taken against the encroachers for the past 10 years,

(4) stage of those proceedings, number of times rent/lessee fees have been revised by the authorities in respect of religious institution of the properties for the past 10 years and

(5) the proceedings if any, and the stage of the proceedings on or before 12.08.2021.

12. With the above directions, this Writ Petition is disposed of. No costs.



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For reporting compliance, call the matter on 12.08.2021.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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TO:

1.The Principal Secretary,
State of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai 600 009.

2.The Commissioner,
Hindu Religions and Charitable Endowment Board,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034.

+1CC TO M/S SPL GP, SR NO.25563, Dt.15/12/2020

W.P. (MD) .No.17198 of 2020

Dated :11.12.2020

RKN (29.07.2021) 6P 4C