



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

CORAM:

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.17425 of 2020

and W.M.P. (MD) Nos.14567, 14568 & 14570 of 2020

(Through Video Conference)

WEB COPY

Muthiah

... Petitioner

Vs.

- 1) The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Sivagangai.
- 2) The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Paramakudi.
- 3) The Inspector,
Hindu Religious and Charitable
Endowments Department,
Thiruppathur, Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 2nd respondent in Che.Mu.Na.Ka.No.3264/2017/A6, dated 11.03.2020 and quash the same.

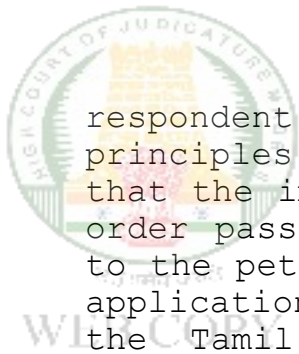
For Petitioner : Ms.J.Anandavalli
For Respondents : Mr.K.P.Narayanakumar,
Special Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order dated 11.03.2020 passed by the second respondent in Che.Mu.Na.Ka.No.3264/2017/ A6 appointing a fit person for the Temple Arulmigu Manjanikootha Ayyanar Arulmigu Muthaiya Swamy, Arulmigu Sonaiah Temple situated in Sy.No.203/01, Thirukkostiur Village.

2. Mr.K.P.Narayanakumar, learned Special Government Pleader accepts notice for the respondents. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner has challenged the impugned order on the ground that, without any notice to the petitioner, the second



respondent has appointed a fit person, in violation of the principles of natural justice. It is also the case of the petitioner that the impugned order has been passed in violation of the earlier order passed by this Court in W.P.(MD) No.11305 of 2009. According to the petitioner, the second respondent ought to have seen that an application has been filed by the petitioner under section 63(B) of the Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter referred as the 'Act'), which is still pending and therefore, the question of appointment of a fit person to the Temple is illegal.

4. It is also the further contention of the petitioner that the second respondent ought to have seen that the appointment of a fit person under section 49(1) of the Act is not permissible, when the Temple is under the administration of a Hereditary Trustee. In the aforementioned circumstances, this writ petition has been filed.

5. Heard Ms.J.Anandavalli, learned counsel for the petitioner and Mr.K.P.Narayanakumar, learned Special Government Pleader for the respondents

6. Ms.J.Anandavalli, learned counsel for the petitioner drew the attention of this Court to the order dated 03.04.2019 passed in favour of the petitioner in W.P.(MD) No.11305 of 2009 and submitted that the earlier order dated 19.10.2009 passed by the second respondent appointing a fit person, was quashed by this Court by its order dated 03.04.2019 in W.P.(MD) No.11305 of 2009 for violation of principles of natural justice. According to her, despite the said order, the second respondent has once again not adhered to the principles of natural justice by not giving an opportunity to the petitioner while passing the impugned order dated 11.03.2020 appointing once again a fit person for the very same Temple.

7. Learned counsel for the petitioner also drew the attention of this Court to Section 49 of the Act and would submit that when the Temple is under the administration of a Hereditary Trustee, that too, when a petition has been filed under section 63(b) of the Act, seeking for the petitioner to be declared as a Hereditary Trustee, the second respondent does not have the power under Section 49(1) of the Act to appoint a fit person for the Temple.

8. Per contra, the learned Special Government Pleader appearing for the respondents, on instructions would fairly submit that, no notice was given to the petitioner before passing of the impugned order. However, the learned Special Government Pleader for the respondents would submit that the respondents deny the allegations made by the petitioner in the affidavit filed in support of the writ petition.

9. In the earlier order dated 03.04.2019 passed by this Court in W.P.(MD) No.11305 of 2009 filed by the very same petitioner,.



challenging the appointment of a fit person, wherein it has been made very clear that without notice to the persons in Management of the Temple, no fit person can be appointed. The relevant portion of the said order is extracted hereunder:

“9. Admittedly, even according to the second respondent, the temple is managed by the petitioner, as seen from the written statement filed by them, the suit in O.S.No.92 of 2004, before the District Munsif Court, Thiruppathur. Even as seen from the impugned order, it is admitted by the respondents that some persons were managing the Arulmighu Manjanikootha Ayyanar, Arulmigu Muthaiya Swamy, Arulmigu Sonaiah Temple, which is situated at Survey No.203/01, Thirukkostiyur Village. This being the case, without giving notice to the persons, who are managing the Temple, the impugned order has been passed. This amounts to clear violation of principles of natural justice”

9. Now, once again, the second respondent has passed an order appointing a fit person for the very same Temple, without adhering to the principles of natural justice.

10. For the foregoing reasons, the impugned order is hereby quashed and the matter is remanded back to the second respondent for fresh consideration with regard to the appointment of a fit person for Arulmighu Manjanikootha Ayyanar, Arulmigu Muthaiya Swamy, Arulmigu Sonaiah Temple, which is situated at Survey No.203/01, Thirukkostiyur Village. The second respondent shall pass final orders on merits and in accordance with law after hearing the petitioner and other necessary parties and after affording them adequate opportunity in the said hearing and also after granting them the right of personal hearing within a period of 12 weeks from the date of receipt of a copy of this order.

11. It is made clear that the petitioner's application seeking permission for Thiruppani work shall be decided by the first respondent *de horse* the proceedings initiated by the second respondent. Further, it is also made clear that the order passed in this writ petition shall not bar the first respondent to pass final orders in the application dated 15.04.2019 submitted by the petitioner under Rule 11 of Management and Preservation of Properties of Religious Institutions Rules on merits and in accordance with law.



12. With the aforementioned directions and observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sts

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,
Hindu Religious and Charitable
Endowments Department,
Sivagangai.
- 2) The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Paramakudi.
- 3) The Inspector,
Hindu Religious and Charitable
Endowments Department,
Thiruppathur, Sivagangai District.

+1 cc to Mr.J.ANANDA VALLI ,Advocate, SR No.23993
+1cc to M/s.Special Government Pleader, SR No.24293

Order made in

W.P. (MD) No.17425 of 2020

Dated:

03.12.2020

SVN(CO)

KK(11.01.2021) 4P 6C