



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.07.2020

PRESENT

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) Nos.8861 of 2018 & 7278 of 2020

and

WMP (MD) Nos.8285, 11588 & 18959 of 2018

&

WMP (MD) No.6727 of 2020

WP (MD) No.8861 of 2018 :

R.Raja

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Trichirappalli Region,
Trichy.

3.C.Kalyani

4.The Fit Person,
Executive Officer of A/m.Konnaiyur
Muthumariamman Temple,
Konnaiyur, Ponnamaravathi Taluk,
Pudukkottai District.

5.P.L.Muthaiah

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorari calling for the records relating to the impugned proceedings in Se.Mu.Na.Ka.No.5675/2018/A1 14.04.2018 of the 2nd respondent and quash the same.

For petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.V.R.Shanmuganathan, Special Govt.Pleader
for R1 and R2

: Mr.G.Mathavan for R4

: Mr.K.Govindharajan for R5



in WP(MD)No.7278 of 2020 :

R.Raja

... Petitioner

Vs.

1.The Commissioner Hindu Religious and
Charitable Endowment, Nungampakkam,
Chennai -600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Trichirapalli Region, Trichy.

3.The Fit Person/Executive Officer
of A/m. Konnaiyur Muthumariamman Temple
Konnaiyu, Ponnamaravathi Taluk,
Pudukottai District.

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned proceedings dated 09.06.2020 in Na.Ka.No. 35/2018 on the file of the 3rd respondent and impugned proceedings dated 18.06.2020 in Na.Ka.No.35/2018 on the file of the 3rd respondent and quash the same.

For petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.V.R.Shanmuganathan, Special Govt.Pleader
for R1 and R2

: Mr.G.Mathavan for R3

COMMON ORDER

With the consent of the learned counsel on either side, both these writ petitions are taken up for final disposal.

2.The writ proceedings pertain to the management and affairs of Arulmighu Azhagiya Nachiyamman Udaiyaprattiyamman, Keelavegupatti, Arulmighu Veguliamman (Vahaiyara), Thirukkoil, Ponnamaravathi, Pudukkottai District. It is seen from the records that the temple has been included in the list published under Clause 2 of Section 46 of the Hindu Religious and Charitable Endowments Act, 1959.



The temple is under hereditary management. One Ramasamy Ambalam was the hereditary trustee. Following his demise, his legal representative Thiru.R.Raja was recorded as hereditary trustee. Thiru.P.L.Muthaiah, Ponnamaravathi submitted a complaint alleging misappropriation and mismanagement on the part of the said Raja. Thereupon, the Joint Commissioner, HR&CE, Trichy issued an order dated 14.04.2018 suspending Thiru.Raja and directed the Executive Officer of Arulmighu Muthumariamman Kovil, Konnaiyur as the fit person of the said temple. Thiru.Raja was directed to hand over the charge to the newly appointed fit person. This order was challenged by Thiru.Raja in WP(MD)No.8861 of 2018. It is seen that interim stay was originally granted. To vacate the same, Thiru.P.L.Muthaiah/the complainant had filed a petition. While so, during one of the hearings, the learned counsel appearing for the petitioner reported "no instructions". Therefore, interim stay got vacated. In the meanwhile, the Executive Officer of Arulmighu Muthumariamman Kovil, Konnaiyur directed Thiru.Raja to hand over the charge vide communication dated 18.06.2020. This was put to challenge by Thiru.Raja in WP(MD)No.7278 of 2020. Since the impugned order in WP(MD)No.7278 of 2020 is only consequential to the order dated 14.04.2018 passed by the Joint Commissioner, HR&CE, Trichy, I was of the view that both the writ petitions should be heard together. They are accordingly heard together.

3.The learned counsel appearing for the petitioner fairly submitted that the issue regarding jurisdiction was not pleaded in the first writ petition. But, he claims that it was raised during the course of arguments and that is why, this Court had granted interim order in the first instance. The learned Special Government Pleader appearing for HR&CE was fair enough to admit that the temple in question is included in the list published under Section 46(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In fact, this is clear from the opening paragraph of the order dated 14.04.2018. When the Joint Commissioner, HR&CE, Trichirappalli herself would concede in the order dated 14.04.2018 that the temple in question is included in the list published under Section 46(ii) of the Act, obviously, the competent authority to pass an order of suspension will only be the Commissioner, Hindu Religious and Charitable Endowments Department. Section 53(1) of the Act reads as follows :

"53. Powers to suspend, remove or dismiss trustees.-(1) In this section, the expression "appropriate authority" shall, unless the context otherwise requires, means,-

[(a) in respect of any trustee of any religious institution included in the list published under clause (iii) of section 46, [the Government];

[(b) in respect of any trustee of any religious institution included in the list published under clause (ii) of section 46, the Commissioner];



(c) in respect of any trustee of any religious institution included in the list published under clause (i) of section 46 and in respect of any hereditary trustee of any religious institution not included in the list published under the said section 46, [the Joint/Deputy Commissioner]; and

(d) in respect of any non-hereditary trustee of any religious institution not included in the list published under section 46 [the Assistant Commissioner]].

[(1-A) Notwithstanding anything contained in sub-section (1), for the purpose of this section, the Government shall-also be the appropriate authority in respect of any trustee of any religious institution.]”

4. Even though it has not been specifically pleaded in the first writ petition, the petitioner has raised this ground in the second writ petition. In any event, the point regarding jurisdiction is a legal issue. Section 53(1)(b) of the act is clearly attracted. Therefore, I have to necessarily hold that the Joint Commissioner, HR&CE, Trichy had no jurisdiction to suspend the petitioner from the office of the hereditary of the subject temple. On this sole ground of want of jurisdiction, the order dated 14.04.2018 that is subject matter of challenge in WP(MD)No.8861 of 2018 is quashed. Since the order impugned in WP(MD)No.7278 of 2020 is consequential in nature, it has to go as a matter of course. Both the orders are quashed. Since I have not dealt with the matter on merits, it is needless to say that the competent authority is at liberty to pass orders afresh in accordance with law. I reiterate that I have not gone into the merits of the allegations made by Thiru.P.L.Muthaiah.

5. With these observations and liberty, the writ petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL.SIDE)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Commissioner,

Hindu Religious and Charitable Endowment,

Nungambakkam, Chennai - 600 034.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Trichirappalli Region,
Trichy.

3.The Fit Person/
Executive Officer of A/m.Konnaiyur
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KM (09.07.2020) 5P 4C