



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD)No.3189 of 2017 and
WMP (MD)Nos.2544 & 2545 of 2020

Rebello

...Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious Charitable & Endowments Department,
Madurai.

2.The Deputy Commissioner/
Executive Officer,
Arulmigu Pandimuneeswarar Temple,
Melamadai,
Madurai North Taluk,
Madurai District.

3.P.M.Veera Pandiammal

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the second respondent in Na.Ka.No.70/2016/Aa1, dated 13.02.2017m quash the same.

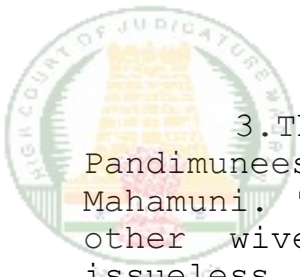
For Petitioner : M/s.J.Anandhavalli

For Respondents : For R1 & R2 - Mr.V.R.Shanmuganathan,
Special Government Pleader
For R3 - No appearance

O R D E R

Heard the learned counsel for the Writ Petitioner and the learned Special Government Pleader for the respondents 1 & 2.

2. The third respondent has been served and had entered appearance through counsel. In fact the said counsel had originally joined the proceedings. But now he is not available. This Court attempted to contact him through his mobile phone, but he has not mentioned his mobile number in the Vakalat form. Therefore, this Court has to proceed with the matter and dispose of the same.



3.The subject matter pertains to the affairs of Arulmigu Pandimuneeswarar Temple. The said temple was founded by one Mahamuni. The said Mahamuni had as many as five wives. Though the other wives bore children, the second wife Saroja ammal was issueless. Dispute arose regarding the exercise of Poojari rights. The learned counsel for the petitioner states that the matter was eventually compromised in OS No.257 of 2007 on the file of II Additional Sub Court, Madurai, as the various branches had agreed that the turn of Sarojaammal will be performed by the Writ petitioner Rebello. But then in the year 2012, petition was received from one Veerapandian. Taking note of the said objection raised by Veerapandian, with regard to the turn of Rebello, an order dated 30.04.2012 was passed. Rebello was to officiate as Poojari on daily wages basis. The said order was challenged by Veerapandian and subsequently the same was also withdrawn. O.S.No.435 of 2011 had earlier been filed by Veerapandian and in view of the said pendency of the said suit, the aforesaid interim arrangement was made. The learned counsel for the petitioner states that Rebello is also a trustee and that is why when the Government took disciplinary action against the trustees, the petitioner was one of the noticees. In the meanwhile, one Veerammal submitted a petition dated 06.02.2017 questioning the rights of the writ petitioner herein to exercise poojari rights in the turn meant for Sarojaammal. The said petition was taken on file and enquiry notice dated 13.02.2017 was issued or is challengd in this Writ Petition.

4.When the matter was taken up for disposal, the learned counsel for the petitioner as well as the learned Special Government Pleader submitted that the Honourable Supreme Court had since set aside the order passed by the Commissioner dated 12.05.2016 appointing Executive officer for subject temple. It is seen that the impugned notice was issued by Chelladurai, who has described himself as Deputy Commissioner/Executive officer. The learned Special Government Pleader would contend that the very same Executive officer was also acted as fit person and that therefore issuance of the impugned notice cannot be said to be without jurisdiction. But the petitioner is not only a staff of the temple but also one of the trustees. That being so, the fit person cannot take disciplinary action.

5. Without even going into this aspect, one can note that in the impugned communication dated 13.02.2017, the authority had described himself only as an Executive Officer. Notice has been issued only by the Executive Officer. Since the order appointing Executive officer has been set aside by the Honourable Apex Court, I am of the view that the impugned communication has to go. The Writ Petition is allowed. I make it clear that this impugned notice has been quashed only by treating the communication as having been issued by the Executive Officer. I refrain from going into the other contested claims. With these observations, the Writ Petition is



allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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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.

To

1. The Joint Commissioner,
Hindu Religious Charitable & Endowments Department,
Madurai.
2. The Deputy Commissioner/
Executive Officer,
Arulmigu Pandimuneeswarar Temple,
Melamadai,
Madurai North Taluk,
Madurai District.

+1 CC to M/s.J. ANANDHAVALLI, Advocate (SR-13711[F] dated 06/08/2020)

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04.08.2020
(1/3)

AP (28/08/2020) 3P 4C