



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MRS.JUSTICE S.KANNAMMAL

W.A.NO.369 OF 2021
AND C.M.P.NO.1460 OF 2021

K.Rajendran

.. Appellant/
5th Respondent

Vs

- 1.C.M.Sivababu
President,
Tamil Desiya Makkal Katchi,
180/32, Iyyakannu Mudaliar Street,
Tiruvannamalai - 606 601.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments
Departments, No.119,
Uttamar Gandhi Salai, Nungambakkam,
Chennai - 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Departments, Collector Office Road,
Villupuram - 605 602.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Departments, Thiruvoodai Street,
Tiruvannamalai - 606 601.
- 5.The Executive Officer,
Hindu Religious and Charitable Endowments
Departments,
Kamatchi Amman Koil Compound,
Kamatchi Amman Koil Street,
Tiruvannamalai - 606 601.

.. Respondents/
Petitioner/Respondents1 to 4



Appeal filed under Clause 15 of Letters Patent against the order dated 27.11.2020 passed in W.P.No.9421 of 2020.

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Prayer in W.P.No.9421 of 2020:-

Writ Petition filed under Article 226 the Constitution of India praying to writ of mandamus directing the Respondents 1 to 4 appoint a competent person as the Archagar (Priest) of Arulmigu Sri Kaliyamman Thirukovil at Chengam Road Girivalapathai Tiruvannamalai and to forbear the 5th Respondent from performing any Poojas at the said temple and further for a direction, directing the Respondent authorities herein to pass Orders on the petitioners representation dated 17.02.2020 in accordance with law

For Appellant : Ms.Reshmi Christy

For Respondents : Mr.J.Ashok Kumar for R1

Mr.D.Ravichander,
Government Counsel
for R2 to R5

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal is preferred against the order of the learned Single Judge, who, in the writ petition filed by the first respondent, was pleased to direct the official respondents to appoint an archakar in the place of the appellant on a permanent basis.

2. The brief facts involved are to the effect that the appellant, who was working as a Government Servant in the Public Works Department, was also incidentally doing the work of archakar, though on a temporary basis. In the year 2016, the appellant was suspended. He attained the age of superannuation in the year 2017 - 30.04.2017 by the proceedings of the Assistant Executive Engineer (P.W.D.) dated 13.05.2020.

3. Learned Single Judge by taking into consideration all the relevant materials governing held that it would only be appropriate to have a permanent archakar and the son of the appellant cannot be allowed to continue in view of the suspension of the appellant on temporary basis.



4. Learned counsel appearing for the appellant submitted that the poojas have been performed on a rotation basis. The suspension order being not a punishment, a writ of mandamus to appoint some other person on temporary basis cannot be sustained in the eye of law.

5. Learned counsel appearing for the first respondent submitted that, that was the practice available earlier before the temple was taken over by the official respondents. The temple is not a denominational temple and, therefore, it being a public temple, it is for the official respondents to appoint the archakar on permanent basis. The learned Single Judge rightly construed Section 55 of the Hindu Religious and Charitable Endowments Act, 1959 while issuing the direction. In any case, the appellant has attained 60 years and, therefore, the same would be hit by Tamil Nadu Hindu Religious Institutions (Officers and Servants) Service Rules, 1964 with specific reference to Rule 5. Therefore, the appeal deserves to be dismissed.

6. The same is also expressed by the learned Government Counsel who stated that the process is already on as stated in the counter affidavit filed before the learned Single Judge and advertisements have been made.

7. We do not find any merit in this appeal. The appellant does not have vested right. He also attained the age of superannuation. The suspension order itself was passed when he was working in the Public Works Department, wherein he was working on temporary basis. The temple was taken over by the official respondents. It is not a denominational temple.

8. In such view of the matter, the learned Single Judge was right in taking note of Section 55 of the Hindu Religious and Charitable Endowments Act, 1959 while issuing direction.

9. Thus, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

mmi/ssm



To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments
Departments, No.119,
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Tiruvannamalai - 606 601.

+1cc to M/S.K.V.Sajeev Kumar, Advocate, SR.No.41336
+1cc to Government Pleader, SR.No.41287

W.A.No.369 of 2021

NMI (CO)
PM(13/09/2021)