

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.9943 of 2021

M.Padmanaban

.... Petitioner

Vs.

The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai -34.

.... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus to direct the respondent herein to consider the petitioner's representation dated 01.03.2021 and to pass order on his representation in accordance with law.

For Petitioner : Mr.M.Ganesh

For Respondent : Mr.R.Venkatesh
Government Advocate

O R D E R

A memo has been filed by the official respondent dated 22.04.2021, stating as follows:

'The above Writ petition is filed by the Petitioner praying to issue,

"Writ of Mandamus by directing the respondent herein to consider the Petitioner's representation dated 01.03.2021 and to pass order on his representation in accordance with law and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thereby render justice."

In compliance with direction issued by the Hon'ble Court in W.P. No.16432 of 2020, the Joint Commissioner, HR & CE Department, Mayiladuthurai vide Se.Mu.Na.Ka.2881/2020/Aa2 dated 23.12.2020 passed an order wherein he had recommended appointment of Executive Officer Under Section 45(1) of the HR & CE Act to the Commissioner, HR & CE Department, Chennai - 600 034.

As against this order Writ Petition.MD.1822 of 2021 and WMP MD.1554 of 2021 was filed by D.Duraisrinivasan, S.Gopalakrishnan and D.Raju. The Hon'ble High Court vide order dated 03.02.2021 set aside the order passed by the Joint Commissioner dated 23.12.2020 with the following direction:

"It is well settled that a mere recommendation is not amenable to challenge in the Writ Jurisdiction. Only if the legal right of the Petitioner is infringed, Writ Petition will lie. But then, the learned counsel appearing for the Petitioners would point out that the second respondent clearly went beyond his brief. Section 45(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 confers jurisdiction only on the Commissioner to appoint an Executive Officer. As a result of the impugned recommendation, the petitioners would be endlessly embarrassed. I am satisfied that it was absolutely unnecessary for the second respondent to have made a recommendation of this nature, when the situation did not clearly warrant the same. The Private respondents had lodged a complaint against the petitioners and the second respondent was called upon to enquire into the same. The second respondent came to the conclusion that the allegations made by the private respondents were not at all substantiated. The matter should have been ended there. There was no need for adding sting in the tail. I make it clear that while it is open to the first respondent to take independent action on his own, he will not be guided by the recommendation made by the second respondent in the impugned order.

The present Writ Petition is not maintainable as the petitioner is requesting to appoint Executive Officer as per the recommendation made by the Joint Commissioner, whereas the Joint Commissioner order recommending the appointment of Executive Officer has

already been set aside by order of this Hon'ble High Court. Hence, the Writ Petition is liable to be dismissed.

Therefore, it is humbly submitted that the Hon'ble Court may be pleased to record this memo and dismiss this Writ Petition as devoid of merits and substance.

2. There is no dispute on facts as far as the narration contained in the memo is concerned. Thus in the light of the averments in the memo, this Court finds no justification for the filing of the present writ petition and dismiss the same in limine. In fact, I am inclined to impose a cost on the petitioner for approaching this Court prematurely, seeing as the representation has itself dated 01.03.2021 filed on 03.03.2021 and this writ petition has been filed on 19.04.2021, barely a month after receipt of the representation. Bearing in mind the circumstances, and the fact that the petitioner states that he was unaware of the order passed by this Court on 03.02.2021 in WP (MD) No.1822 of 2021, I desist from doing so. This writ petition is dismissed. No costs.

*The Xerox Copy of the Memo dated 22/04/2021 enclosed

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkp

To

The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai -34.

+1cc to the Government pleader Sr.26958

W.P. No.9943 of 2021

rr[co]
srg 09/06/2021