

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.05.2021
CORAM :
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.No.11660 of 2021

K.S.Thiyagarajan

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Petitioner

Vs

1. The Commissioner
Hindu Religious and Endowment Department
Nungambakkam
Chennai 600 034.
2. The Joint Commissioner of HR & CE
Thanjavur Region
Thanjavur.
3. The Executive Officer
Arulmighu Viswanata Swamy Thiru Kovil
Pattukkottai Town and Taluk
Thanjavur District.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to condone the delay in filing revision petition and directing the first respondent to number the revision petition returned by him on 01.04.2021 in N.Dis.No.27452/2021 and fix the date for hearing after giving opportunity to the petitioner within a stipulated time.

For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.T.M.Pappiah

Special Government Pleader

सत्यमेव जयते
O R D E R

The prayer sought for herein is for a writ of mandamus, to condone the delay in filing revision petition and directing the first respondent to number the revision petition returned by him on 01.04.2021 in N.Dis.No.27452/2021 and fix the date for hearing after giving an opportunity to the petitioner, within a stipulated time.

2. The petitioner as against the order passed in M.P.No.63 of 2017 by the Joint Commissioner of HR & CE, Thanjavur, dated 17.09.2019, preferred a revision before the first respondent and the said revision otherwise, ought to have been filed within ninety days, however, the same has been filed after ninety six

days, therefore, there is a delay in filing the revision.

3. In view of the said delay, the revision petition has not been entertained by the first respondent and has been rejected by the impugned rejection memo dated 01.04.2021. Challenging the same, present writ petition has been filed.

4. Heard Mr.V.Raghupathi, learned counsel appearing for the petitioner who relied upon an earlier order on the similar circumstances, passed in a batch of writ petitions, in W.P.No.20480 of 2019, etc., batch, dated 25.11.2019, where the learned Judge of this Court has passed the following order:-

"Considering the same, I do not find any discrepancy in the order impugned. However, in the interest of justice, to decide the matter on merits, rather than rejecting it technicalities and render the petitioner remediless, in the exercise of powers under Section 226 of the Constitution of India, this Court condones the delay of 24 days in filing the appeals and direct the respondent to entertain the appeals and decide the same on merits, within a period of four weeks from the date of receipt of a copy of this order.

5. Accordingly, all the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

5. Relying upon this order, the learned counsel would submit that though there is no express provision available under the HR & CE Act, conferring such power to the Commissioner, HR & CE, to condone the delay in filing the revision, when such issue comes before this Court, this Court, by exercising its power under Article 226 of the Constitution of India has passed the said order where the delay has been condoned and a direction was given to the Revisional authority, Commissioner, HR & CE to entertain the revision and decide the same on merits.

6. I have heard Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents who would submit that, though there is no express provision available under the Act, conferring such power to condone the delay in entertaining the revision petition, in view of the orders passed by the learned Judge as has been quoted herein above, relied upon heavily by the learned counsel for the petitioner, the said revision can be entertained.

7. In view of the said legal position, this Court is of the view that, since such kind of power of condoning the delay though has not been expressly provided to the revisional

authority, namely, the Commissioner, HR & CE, this Court is of the considered view and also of the respectful agreement with the view expressed by the learned Judge in the order cited above, dated 25.11.2019, that the delay in preferring revision can very well be condoned. Accordingly, this Court is inclined to dispose of this writ petition, with the following order :

That the first respondent is hereby directed to entertain the revision filed by the petitioner and decide the same on merits and in accordance with law, after affording an opportunity of being heard to the parties concerned as early as possible.

8. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar
(Vacation Officer)

//True Copy//

Sub Assistant Registrar

mvs/tsvn

To

1. The Commissioner
Hindu Religious and Endowment Department
Nungambakkam
Chennai 600 034.
2. The Joint Commissioner of HR & CE
Thanjavur Region
Thanjavur.
3. The Executive Officer
Arulmighu Viswanata Swamy Thiru Kovil
Pattukkottai Town and Taluk,
Thanjavur District.

+cc to Govt Pleader, Sr.27163

+cc to Mr.V.Raghupathi Advocate, Sr.27162

W.P.No.11660 of 2021

RR(CO)

baf 17/05/2021