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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.2916 OF 2016

Arulmighu Angala parameswari Aalaya Committee,
Rep. by its Secretary,
R.Vinayagam

... Petitioner

.Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam High Road,
Madras - 600 034.

2. The Assistant Commissioner,
HR & CE, Nungambakkam High Road,
Madras - 600 034.

3. Arulmighu Angala Parameswari Thirukovil,
Kulakkarai, Vadapalani,
Rep. by its Fit Person,
Vadapalani,
Chennai - 600 026.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the records pertaining to the proceedings of the 1st respondent in R.P.No.80 of 2015 D2 dated 06.11.2015 and quash the same as illegal and incompetent and ultravires.

For Petitioners : Mr.R.Jayaprakash

For Respondents : Mr.NRR.Arun Natarajan
Government Advocate



O R D E R

Heard Mr.R.Jayaprakash, learned counsel for the petitioner and Mr.NRR.Arun Natarajan, learned Government Advocate for the respondents.

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2. The petitioner claims to be the Secretary of the Arulmigu Angalaparameswari Aalaya Committee, Kulakkarai, Vadapalani, Chennai which manages the temple in question i.e. Arulmigu Angalaparameswari Temple. The temple was founded by the Petitioner Committee and was built upon land belonging to one Parthasarathy Naidu who had also gifted the idol in the year 1958.

3. According to the petitioner, the management of the temple including election of the trustees is in line with the bye-laws of the Society. The temple owns no property and had not installed any Hundial in the premises. Reference is made in the affidavit filed in support of the writ petition to an application filed for settlement of scheme in terms of Section 63 of the Hindu Religious and Charitable Endowments Act, 1959, (HR & CE Act) that is stated to be yet pending. However, no details of the said application are available and neither has a copy of the same been placed before me.

4. While the temple was thus peacefully subsisting, there was interference by the HR & CE Department and the third respondent was appointed as fit person and attempted to takeover the temple management. The fit person appointed is the fit person of the Vadapalani Murugan Temple, holding additional charge of the temple in question as well. Upon the fit person taking charge, he has installed a Hundial in the said temple. Prior to that there was no collection of public funds by the petitioner and installation of the Hundial has only been at the instance of the HR & CE Department. The petitioner society however continues to manage the temple by acquiescence of the officials of the Department and the fit person appointed.

5. RP.No.43 of 2008 filed by the petitioner challenging the appointment of the fit person had come to be dismissed on 07.05.2013. However, the dismissal was lost sight of by the members of the petitioner Society, since the erstwhile members of the society who had filed the revision petition had passed away during the pendency of the petition. Upon coming to know of the same, an Appeal under Section 21 of the Act had come to be filed before the Commissioner/R1, who also dismissed the same stating that it was belated.

6. A perusal of both the impugned as well as the original orders dated 20.08.2008 and 07.05.2013 respectively would show



that there are absolutely no grounds raised by the respondent, to justify interference in the management by the temple by appointment of a fit person. This is not a case of mismanagement or maladministration. In fact there is no whisper of either allegation in orders aforesaid. Furthermore, there was no collection of public funds and infact, it is only at the instance of R3 that an Hundial was placed in the temple. The mere fact that the temple was attached to the Vadapalani Murugan Temple which came under the management of the HR & CE Department would not justify interference of the HR & CE Department in the management of the temple in question.

7. Though, with the enactment of the 1959 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, all temples come under the overall general supervision of the State, intervention or interference of the State must only be in cases of mis-management/mal-administration of the religious institutions. Such instances of mis-management/mal-administration must be put to the existing management by way of prior notice, their response sought and only thereafter, if the allegation are found to have been established, must the Department intervene. In the light of the discussion as aforesaid and since no allegation is levelled as against the temple management to justify the appointment of a fit person, the impugned order stands quashed.

8. Since the application for settlement of scheme is not available before me, the petitioner is permitted to file a fresh application seeking settlement of scheme, forthwith. Upon receipt, the Joint Commissioner, HR & CE Department shall decide the same in conjunction with the existing management, within a period of twelve (12) weeks from date of receipt of the application.

9. This Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam High Road,
Madras - 600 034.



2. The Assistant Commissioner,
HR & CE, Nungambakkam High Road,
Madras - 600 034.

3. The Joint Commissioner,
HR & CE, Nungambakkam High Road,
Madras - 600 034.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.33209

+1cc to the Government Pleader, S.R.No.33645

W.P.NO.2916 OF 2016

PMK(CO)
PBS/01/09/2021