



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 09.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.12860 of 2018
and
W.M.P.No.15112 of 2018

T.A.Ranganathan
S/o T.A.Narasimhachari

...Petitioner

-Vs-

1. Government of Tamil Nadu
Represented by its Principal Secretary
Department of Tourism, Culture and
Religious Endowments, Secretariat
Fort St.George, Chennai.
2. The Commissioner,
HR & CE, Uttamar Gandhi Salai
Nungambakkam, Chennai-34.
3. The Executive Trustee
Arulmighu Devarajaswamy Devasthanam
Little Kanchipuram - 631 501.
4. Sri Thathadesikan Thiruvamsathar Sabha
Rep.by its Secretary,
No.35, Sannadhi Street
Little Kanchiuram - 631 501.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent Nos.2 and 3 to make adequate arrangements to ensure on 31.05.2018 and for all sthotrapadam occasions in future, that the age old time tested custom of recitation of stothrapadam by Tenkalais in the Stotrapada Goshti on the fifth day (Mohini Alankaram) of the Brahmotsavam, and to ensure that no other sthotram or Mantra, or any other invocation, is recited during the period, causing an insult to the Lord, in violation of established norms.



WEB COPY

For Petitioner : Mr.Srinivasa Raghavan,
Senior Advocate
for Mr.R.Palaniandavar

For Respondents: Mr.Arun Natarajan,
Government Advocate-for RR 1 and 2

Mr.K.Hariharan - for R3

Mr.Niranjan Rajagopalan
for M/s.G.R.Associates - for R4

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondent Nos.2 and 3 to make adequate arrangements to ensure on 31.05.2018 and for all sthothrapadham occasions in future, that the age old time tested custom of recitation of stothrapatham by Tenkalais in the Stotrapatha Goshti on the fifth day (Mohini Alankaram) of the Brahmotsavam, and to ensure that no other sthothram or Mantra, or any other invocation is recited during the period, causing an insult to the Lord, in violation of established norms.

2. The petitioner claims to be a follower of Thenkalai sect and is an ardent worshipper of Lord Varadharaja of Kanchipuram. He has moved this writ petition in order to ensure recitation of the Sthothrapadam by Thenkalaiyars Sthothrapada Goshti in the third respondent temple.

3. It is the case of the petitioner that, as per the customs which have been followed for several years, where already some judicial orders have been passed by this Court, earliest on 01.05.1882 reported in 1882 ILR 313 and the latest on 06.07.1961 made in W.P.No.1033 of 1958. Based on these decisions, it is the case of the petitioner that, every year during the 5th day of the Brahmotsavam called as Mohini Alankaram, Sthothrapadam has to be recited by the Thenkalaiyars ie., Thenkalai Sthothrapada Goshti.

4. However, it seems that the fourth respondent, which is the opposite sect of the Thenkalai people, to which the petitioner belongs, wants to recite the Sthothrapadam not by Thenkalai Sthothrapada Goshti, but the Thathacharyars.

5. Though this seems to be a dispute between the petitioners, the Thenkalai group and the fourth respondent Thathachariyars group, according to Mr.Srinivasa Raghavan, learned Senior Counsel appearing on behalf of the petitioner, the issue has already been resolved by the two orders of this



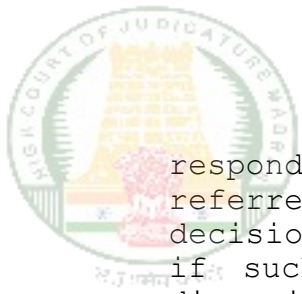
Court cited by him, one in the year 1882 and subsequently in the year 1961, and therefore, based on these orders as well as the long cherished practice and custom, it should be ensured by the temple authorities ie., the Hindu Religious and Charitable Endowments (hereinafter referred to as H.R.& C.E.,) Department that, during the fifth day of the Brahmothsavam every year, the time tested custom of Sthothrapadam is recited by the Thenkalaiyars Sthothrapada Goshti.

6. In order to get the said relief, the petitioner has given a representation to the first and second respondents on 14.05.2018 and 16.05.2018. However, according to the petitioner, the said representations have not been considered ever by the first / second respondents, which has triggered the petitioner to file this writ petition in the year 2018 and for the past three years, the writ petition has been kept pending, where notices have already been ordered and the parties have entered appearance through respective counsel.

7. In this context Mr.Niranjana Rajagopalan, learned counsel appearing on behalf of the fourth respondent has submitted that, if at all any such dispute has arisen between the Thenkalaiyars group ie., the petitioner's group and the Thathachariyars group ie., the fourth respondent group, that necessarily has to be resolved within the meaning of the provisions of Section 63 of the H.R.&C.E., Act, 1959, especially under Section 63(e). Therefore, the said dispute can very well be referred to the Joint Commissioner concerned who can decide the same after hearing both sides on merits within a time frame that may be stipulated by this Court and in this regard, the fourth respondent would give their fullest cooperation to the Joint Commissioner to resolve the issue amicably.

8. However, Mr.Hariharan, learned counsel appearing on behalf of the third respondent ie., Executive Trustee of the third respondent temple contended that, some other writ petitions on similar issue or connected issue are also pending and therefore this writ petition can be decided later on.

9. Mr.Arun Natarajan, learned Government Advocate appearing on behalf of the first and second respondents, on instructions, would submit that, whether it is a dispute or a non-dispute, now the request made by the petitioner, if at all to be considered, has to be considered only after hearing the fourth respondent, as both are taking a divergent view on the issue in question. Therefore, it can necessarily be resolved only by adjudicating the same by the Joint Commissioner or the Deputy Commissioner concerned in exercising their powers vested in them under Section 63 of the H.R.& C.E., Act and therefore, if at all the request of the petitioner given to the first and second



respondents in the year 2018 is to be considered, it shall be referred only to the Joint Commissioner for adjudication and decision under Section 63(e) of the H.R.&C.E., Act. Therefore, if such a course of action is directed by this Court in disposing this writ petition, the Joint Commissioner concerned would do the needful and decide the issue between the parties after giving due opportunity to both parties as well as the third respondent temple within the time stipulated by this Court.

10. I have considered the submissions made on either side and have perused the materials placed on record.

11. Though it is submitted by the learned counsel for the petitioner that the issue has already been decided by two decisions referred to above, one in the year 1882 and another in the year 1962, this Court at this juncture, cannot go into the details of those decisions as it is necessarily a matter to be resolved by the Joint Commissioner of H.R. & C.E., Department, as such power or procedure is contemplated under Section 63 of the H.R.&C.E., Act.

12. Moreover, whether it may be a dispute or may not be a dispute, the language used in Section 63(e) of the H.R. & C.E., Act is that,

" The Joint Commissioner or the Deputy Commissioner, as the case may be], shall have power to inquire into and decide the following disputes and matters.

(a)....

(e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution ; and what the established usage of a religious institution is in regard to any other matter"

Therefore, as has been rightly pointed out by the learned Government Advocate, the issue can be referred to the Joint Commissioner for adjudication and decision.

13. In that view of the matter this Court feels that, this writ petition can be disposed of with the following order.

(a) That the petitioner is hereby directed to send a copy of the earlier representations dt. 14.05.2018 and 16.05.2018 addressed to the first and second respondents, to the Joint Commissioner concerned of the H.R.&C.E., Department within a period of two weeks from the date of receipt of a copy of this order, with relevant inputs and documents.

(b) On receipt of the same, the Joint Commissioner



concerned shall issue notice to the petitioner as well as the third and fourth respondents, fixing a date of hearing.

- (c) On that date, after giving due opportunity of being heard to put forth their respective case and after having such adjudication as may be required or necessary, the Joint Commissioner can decide the issue and pass final orders thereon within a period of three months from the date of receipt of such copy of the representations of the petitioner as indicated above.
- (d) It is made clear that, while deciding the matter, the Joint Commissioner shall give credence to whatever input and materials supplied by the parties inter se ie., the petitioner as well as the third and fourth respondents' side also and accordingly decide the issue in accordance with law by taking into account the age old customs being practised in the temple on the issue raised therein.

14. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Principal Secretary to Government,
Department of Tourism, Culture and
Religious Endowments,
Secretariat, Fort St.George, Chennai.
2. The Commissioner,
HR & CE, Uttamar Gandhi Salai
Nungambakkam, Chennai-34.
3. The Executive Trustee,
Arulmighu Devarajaswamy Devasthanam
Little Kanchipuram - 631 501.

+2cc to Mr.R.Palaniandavan, Advocate, S.R.No.57551

+1cc to the Government Pleader, S.R.No.57735

W.P.No.12860 of 2018

VBM(CO)

RGA(26/11/2021)