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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.08.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.17607 of 2021

&

W.M.P.No.18737 of 2021

K.N.Annamalai

... Petitioner

Vs.

1. The Commissioner of Hindu Religious
Charitable Endowments Department
Uthama Gandhi Street
Nungambakkam
Chennai - 600 034
2. Joint Commissioner of Hindu Religious
Charitable Endowments Department
Villupuram Zone
Villupuram
3. Assistant Commissioner of Hindu Religious
Charitable Endowments Department
Thiruvudal Theru
Thiruvannamalai District
4. The Inspector of Hindu Religious Charitable Endowments
Department
Arani Region
Thiruvannamalai District

... Respondents

Writ petition filed under Article 226 of the Constitution of India directing Respondents 1 to 3 herein to grant permission for Kudumy Natesa Gounder descendants to contribute and lay the fig wood Pothiraja deity statue in the Dharmaraja at Kattukanallur village and perform the Pothiraja Kalayanam, Kumbam, lifting the Pothiraja statue and keeping the deity statue on their head and conduct procession with that statue etc., in favour of petitioner and refrain the respondents 1 to 4 from granting permission in favour of any other person by considering the petitioners representation dated 07.06.2019, 2)



12.06.2019, 3) 26.8.2019 4) 20.02.2020 and last reminder dated 23.02.2021 and consequently direct respondents 1 and 2 to take stringent disciplinary actions against the 4th respondent for received illegal gratification and acted biased manner and tried to lay a metal statue against the Agma rules and circular of the first respondent.

For Petitioner : Mr.V.Neethidurai

For Respondents : Mr.N.R.R.Arun Natarajan
Government Advocate (HR & CE)

ORDER

Captioned main writ petition is listed in the admission Board i.e., in the Motion List under the cause list caption 'FOR ADMISSION'.

2. Mr.V.Neethidurai, learned counsel for sole writ petitioner is before this Virtual Court.

3. 'Arulmigu Dharmaraja Thirukoil in Villupuram District' (hereinafter 'said temple' for the sake of convenience) which is admittedly under the control and management of ' Tamil Nadu Hindu Religious and Charitable Endowment Department' ('TN HR & CE Dept.' for the sake of convenience, clarity and brevity) is the subject matter of captioned writ petition. The central theme of the captioned writ petition is contribution for laying fig wood Pothiraja deity statue, performance of Pothiraja Kalayanam, Kumbam, lifting of Pothiraja statue and keeping the deity statue on their head for conduct of procession etc., In other words, the central theme of the captioned writ petition is a honour qua said temple which the writ petitioner claims. It is the case of the writ petitioner that the above said honour is now to be given to the descendant of one Natesa Gounder i.e., writ petitioner.

4. When the matter was taken up, Mr.V.Neethidurai, learned counsel for writ petitioner was before this Virtual Court. Mr.NRR.Arun Natarajan, learned State counsel accepts notice on behalf of all five respondents, with the consent of learned counsel on both sides, main writ petition itself is taken up and the same is being heard out as the matter turns on a very narrow compass.

5. Learned counsel for writ petitioner contends that the honour rightfully belongs to the writ petitioner and he has sent a detailed representation dated 26.08.2019 besides



representation dated 20.02.2020 sent by his son in this regard. It is the further submission of learned counsel for writ petitioner that another set of persons are making a rival claim to aforementioned honour qua said temple.

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6. The prayer in the writ petition is rather elaborate. It inter alia refers to these representations.

7. In response to the above submission, learned State counsel submitted that there is a specific statutory procedure laid down with regard to honour in temples and this procedure is ingrained in Section 63(e) of 'the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (Act 22 of 1959)' (hereinafter 'TN HR & CE Act' for the sake of convenience and clarity). Section 63 finds its place under Chapter V of TN HR & CE Act and Chapter V proceedings are inclusive of adjudicatory proceedings i.e., quasi-judicial proceedings. This Court deems it appropriate to extract and reproduce Section 63(e) of TNHR & CE Act, which reads as follows:

'63. [Joint Commissioner or Deputy Commissioner] to decide certain disputes and matters.-

(a).....

(b).....

(c).....

(d)

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

8. Before proceeding further, this Court also noticed that there is a reference to a earlier suit, namely O.S.No.151 of 2009 on the file of jurisdictional District Munsif's Court, which ultimately came to be dismissed for default. Though reasons as to why the same was not pursued has not been set out, it may not be necessary to allude to the same as there is a bar with regard to suits qua Section 108 of TN HR & CE Act. It may not be necessary to advert to this also, as all these were not really necessary to dispose of the captioned writ petition on hand.

9. In the light of the narrative thus far, there is consensus before this Court that the aforementioned honour claimed is a matter which has to be decided on its own merits and in accordance with law by the second respondent which is the statutory authority under Section 63(e) of TN HR & CE Act. Therefore, this Court deems it appropriate to pass an order setting out directives and the same will be set out infra.



10. Before I do that, there is another aspect which needs some attention. Learned counsel for writ petitioner advert to the representations submits that incumbent Inspector of TN HR & CE Dept., Arani region is acting in a partisan manner. This Court refrains itself from expressing any opinion or view on this allegation in the light of this Court intending to relegate the parties to Section 63(e) proceedings. As a matter of good order and merely to ensure that there is complete fair play and there is no scope for perceived bias, this Court deems it appropriate to replace the incumbent Arani region Inspector with another incumbent for 63(e) proceedings and administrative function of said temple for the present. It is made clear that this will not be construed as any opinion or view on the allegations against the incumbent Inspector, Arani region. This is only to eliminate the perceived bias. This order is being passed in the unique facts and circumstances of this case and therefore, will not serve as a precedent qua perceived bias in every case in the days to come.

11. By consent, the following order is passed:

a) The writ petitioner shall move second respondent i.e., Joint Commissioner, Hindu Religious Charitable Endowments Department, Villupuram Zone, Villupuram by way of a petition under Section 63(e) of TN HR & CE Act claiming the honour set out supra elsewhere in this order;

b) The above petition shall be filed on or before 01.09.2021. Along with the above petition, it is open to the writ petitioner to annexe the above mentioned representations sent by him and his son, being representations dated 26.08.2019 and 20.02.2020 for consideration as material before the Joint Commissioner;

c) In the Section 63(e) petition, writ petitioner shall ensure that all necessary parties are arrayed as respondents;

d) In Section 63(e) proceedings and all other proceedings, until the 63(e) petition is decided by the Joint Commissioner (statutory authority prescribed under the statute), instead of the Arani Inspector of TN HR & CE, Mr. Parthasarathy, Inspector, who is now serving as Inspector, HR & CE, Kalasapakkam region shall participate and deal with administrative activities qua said temple;

e) Though obvious, it is made clear that the above arrangement is only till the disposal of Section 63(e) petition before the statutory Authority i.e.,



second respondent and thereafter law will take its course depending on the verdict returned by the Statutory Authority;

f) The second respondent Joint Commissioner is directed to take up 63(e) petition to be filed on or before 01.09.2021 and dispose of the same on its own merits and in accordance with law as expeditiously as possible as his business would permit and in any event within 8 months from 1st September 2021, i.e., on or before 30.04.2022.

g) The allegations made regarding the incumbent Inspector will depend on the verdict in the 63(e) proceedings i.e., post 63(e) proceedings, but that would obviously be outside the domain of the second respondent in proceedings under Section 63(e) of TNHR & CE Act.

Writ petition disposed of on above terms. There shall be no order as to costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy//

Sub Assistant Registrar

gpa

To

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Uthama Gandhi Street
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Thiruvudal Theru
Thiruvannamalai District



4. The Inspector of Hindu Religious Charitable Endowments
Department,
Arani Region,
Thiruvannamalai District.

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+1cc to Mr.V.Neethidurai, Advocate, S.R.No.42256

+1cc to the Government Pleader, S.R.No.42794

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GPL (CO)
SU (07/09/2021)