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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.18258 of 2021

M.Pandian

... Petitioner

Vs.

1. The Commissioner
HR & CE Department
Nungambakkam High Road, Chennai - 600 034
2. The Superintendent of Police
Villupuram
Villupuram District
3. Joint Commissioner
HR & CE Administration Department
Villupuram
4. Executive Officer
Arulmigu Perundevi Nayagi Samethe
Varadaraja Perumal Temple
Anathapuram, Gingee Taluk
Villupuram District

... Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to consider the representation of the petitioners dated 20.08.2021 in order to establish the right of 'Oorakali' set to play the 'Uriyadi' during the Krishna Jayanthi celebration to be held at Arulmigu Perundevi Nayagi Samethe Varadaraja Perumal Temple on 30.08.2021 in Anathapuram Village, Gingee Taluk, Villupuram District.

For Petitioner : Mr.C.Umashankar
for Mr.M.Selvam

For Respondents : Mr.NRR.Arun Natarajan
Government Advocate



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ORDER

Mr.C.Umashankar, learned counsel appearing on behalf of Mr.M.Selvam, counsel on record for writ petitioner is before this Virtual Court.

2. This matter was mentioned at half past ten today saying a festival, which goes by the name 'Uriyadi Thiruvizha' (hereinafter 'said festival' for the sake of convenience and clarity) is to be held at 'Sri Perundevi Nayagi Sametha Varadaraja Perumal Temple, Anathapuram, Gingee Taluk, Villupuram District' (hereinafter 'said temple' for the sake of brevity, convenience and clarity) on Monday (30.08.2021) and there is an issue regarding a honour in the said festival as between two sets of people.

3. Lunch motion was sought by mentioning at half past ten by saying a law and order situation would arise if the said festival is held on Monday owing to tension said to be prevailing as between two sets of people over aforementioned honour qua said festival qua said temple. Therefore, the request for Lunch Motion was acceded to.

4. Mr.NRR.Arun Natarajan, learned State counsel accepted notice on behalf of all the four respondents.

5. This Court, with the consent of learned counsel on both sides took up the main writ petition as, a) captioned writ petition turns on a narrow compass and b) captioned writ petition can be disposed of without adversely impacting or affecting the rights of any private party i.e., by making adequate provision for the same or in other words to put in a safety valve in place. A perusal of the writ affidavit shows that the issue is participation/honour in said festival as between two sets of persons.

6. This tussle, as between the two groups, appears to have been simmering for some time now as, on 24.08.2019, a peace committee meeting was held and a resolution was made putting in place a temporary arrangement for the festival in 2019. This Court is informed that Uriyadi festival is an annual event. This Court is also informed that ultimately the Uriyadi festival was held in the year 2019, but it was not held in the year 2020 owing to Covid 19 situation.

7. Now, on instructions, learned State counsel submits that said festival is not going to be held in the year 2021 also, owing to the Corona Virus Pandemic and consequent situation, which is being collectively referred to as 'Covid-19 situation'. This submission is recorded. Learned State counsel submits that



this submission is made on written instructions from the Official respondents. A scanned reproduction of the written instruction is as follows:

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இத்து சமய அறநிலைத்துறை

செஞ்சி

அனுப்பவர்,	பெறுவர்.
சி.க. அன்பழகன்.	அரசு வழக்கறிஞர்.
ஆய்விதர.	இத்து சமய அறநிலைத்துறை.
இத்து சமய அறநிலைத்துறை.	உயர் நீதிமன்றம்.
செஞ்சி.	சென்னை.

அய்யன்.

நாள்: 27.08.2021

பொருள்: வழக்கு அறிக்கை சமர்ப்பித்தல் - அருள்மிகு ஸ்தலாஜிபெருமான் திருக்கோயில் அமைத்தபுரம் செஞ்சி கட்டம் விழுப்பம் மாவட்டம் திரு. பன்னையன் கட்டபுத்தெரு அமைத்தபுரம் அமைதி தொடர்ந்த வழக்கு - தொடர்பாக

பரிந்துரை: அரசு வழக்கறிஞர் உயர் நீதிமன்றம் சென்னை - யின்னஞ்சல் செய்தி நாள்: 27.08.2021

விழுப்பம் மாவட்டம், செஞ்சி கட்டம் அமைத்தபுரம் மிராமம் அருள்மிகு ஸ்தலாஜிபெருமான் திருக்கோயிலில் 30.08.2021 அன்று கோகுலவெட்டி திருவிழாவை மூலக்கட்டு உரிமை திருவிழா நடத்த கோரி சென்னை உயர் நீதிமன்றத்தில் தொடர்ந்த வழக்கு தொடர்பாக எனது அறிக்கை யினை கீழ்க்கண்டவாறு அளித்து சமர்ப்பிக்கப்படுகிறது.

இப்பொழுது கொரானா தொற்று பரவியதால் தற்போதைய நிலைமை தொடர்ந்து கட்டுப்பாட்டில் கோகிலில் பொதுமக்கள் கூட்டமாக கூட கூடாது என்றும் குடும்ப அங்கம் மற்றும் திருவிழாக்கள் ஏதும் நடத்த கூடாது என்றும் தமிழக அரசு தீர்மானித்துள்ளது. எனவே மனு நிராகரிக்கவும் திருக்கோயிலில்



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30.08.2021 அன்று கோகுலஷ்டமி திருவிழாளை முன்னிட்டு உரிய திருவிழா நடத்த அனுமதி இக் கணை என்ற விவரம் பணிபுடன் நெறிநிதிதுகொள்ளப்படுகிறது.

பணிபுடன்

திரு. பி. சி. சிவசுப்பிரமணியன்
ஆய்வினைத் துறை

இந்து சமய அறநிலையத்துறை
செஞ்சி.

நகல் பணிந்து சமர்ப்பிக்கப்படுகிறது.

1. இணை ஆணையர்.

இந்து சமய அறநிலையத்துறை
விழுப்புரம்.

2. உதவி ஆணையர்.

இந்து சமய அறநிலையத்துறை
விழுப்புரம்.

8. The above draws the curtains on the issue for the present, but considering the nature of the prayer, this Court is of the considered view that it is necessary that a quietus is given to the issue so that it does not erupt every year, as the said festival can be an annual event, but a writ petition every year cannot be a annual feature. To avoid this scenario, the Statute and the obtaining position under the Statute has to be applied. Whenever there is any disputation regarding honour in a temple, which is under the 'Tamil Nadu Hindu Religious and Charitable Endowments Department' ('TN HR & CE Dept.' for the sake of convenience, clarity and brevity), the Joint Commissioner of TN HR & CE Dept. is statutorily vested with the power to decide the same by a quasi-judicial exercise of power under Section 63(e) of 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' (hereinafter 'TN HR & CE Act' for the sake of convenience and clarity).

9. Section 63(e) of TN HR & CE Act 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.'

10. Though the issue has been simmering for some time, there is nothing before this Court to demonstrate as to why the writ petitioner has not resorted to Section 63(e) proceedings. It is high time the writ petitioner resorts to 63(e) proceedings by arraying others in his group as co-petitioners and the other set of persons, who make rival claim and all other necessary parties as respondents before the Joint Commissioner. It is made clear that if this is not done, the writ petitioner cannot approach this Court by way of a writ petitions on the ground of law and order disruption in the years to come. Therefore, the following order is passed:

a) Writ petitioner and all others belonging his group or set which the writ petitioner belongs to shall file a petition under Section 63(e) of TN HR & CE Act before the jurisdictional Joint Commissioner (third respondent) on or before 01.10.2021.

b) In the aforementioned petition under the third respondent, the writ petitioner and his co-petitioners shall array all necessary parties (private parties) more particularly the rival claimants qua the honour as respondents.

b) To be noted, the above is the safety valve that is put in place to protect the rights of private parties as the main writ petition is being disposed of at the admission stage by hearing the writ petitioner's counsel and the State counsel;

c) The third respondent Joint Commissioner shall embark upon the quasi-judicial exercise of hearing the 63(e) petition on its own merits and in accordance with law and complete the exercise as expeditiously as possible i.e., as expeditiously as his business would permit and in any event within six months from 01.10.2021 i.e., on or before 01.04.2022.

With the above directions, captioned writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar



gpa

To

1.The Commissioner
HR & CE Department
Nungambakkam High Road, Chennai - 600 034

2.The Superintendent of Police
Villupuram
Villupuram District

3.Joint Commissioner
HR & CE Administration Department
Villupuram

+1cc to Government Pleader Sr No.43714

W.P.No.18258 of 2021

JPL (CO)
PR (20/09/2021)