

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.19022 of 2020 and
WMP.No.23595 of 2020

Sivashri C.Kulandhaivel Subramaniam,
S/o Sivashri Chandrasekara Gurukkal,
D.No.6/167, Opposite of State Bank of India,
Gobi Main Road, Sevr Post,
Avinashi Taluk, Tiruppur District. ...Petitioner

Vs.

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dr.Balasundram Road,
Coimbatore.
- 2.The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Department,
Tiruppur.
- 3.The Fit person,
A/m.Sevr Vaaleeswarar Temple,
Avinashi Taluk, Tiruppur District. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 16.10.2020 bearing Na.Ka.No.363/2020/A3 on the file of 2nd respondent herein and quash the same and consequently directing the respondents herein to permit the petitioner to function as Archaga of A/m Vaaleeswar Swamy temple, situated at Sevr, Avinashi Taluk and for any other reliefs that may be appropriate in the present circumstances of the case.

For Petitioner : Mr.K.Sudhakar

For Respondents : Mr.R.Venkatesh, (for R1 & R2)
Government Advocate
Mr.K.Ashok Kumar (for R3)

O R D E R

The petitioner has been rendering the duty as an Archagar of the Vaaleeswarar Temple at Sevoor Village, Avinashi Taluk, Tiruppur District (temple) from 13.02.2018 for which the Executive Officer of the Venkatesa Perumal Temple was holding additional charge as fit person. The rendition of services was voluntary and, if at all on a temporary basis, since there are no posts sanctioned by the Department/Government in that temple.

2. While this is so, there appear to have been certain allegations that were made as against the petitioner and along with the counter affidavit the Executive Officer has also filed a compilation of documents, wherein a deed of trust dated 05.09.2018 is placed.

3. According to the Executive Officer, the petitioner was witness to the formation of a trust for carrying out various temple activities. Phamplets were distributed for the conduct of a Rudhra Homam in the temple.

4. Based on a complaint from the public to the 3rd respondent alleging mismanagement of the temple, the petitioner was asked by the Executive Officer to desist from rendering services as Archagar. A representation came to be filed by the petitioner and since the same had been pending for long, Writ Petition No.32835 of 2019 came to be filed wherein a direction was obtained by the petitioner to the Assistant Commissioner for disposal of the representation within a period of twelve (12) weeks. The representation has come to be disposed on 16.10.2020, which is the subject matter of challenge in the present order.

5. Learned counsel for the petitioner would point out that no show cause notice or notice of any kind was issued to the petitioner prior to the passing of the impugned order. However, a perusal of the impugned order reveals that notices were issued to the petitioner, in response to which there had been appearances by him and the principles of natural justice have thus been adhered to, in full.

6. Since the factum of mismanagement or otherwise, and the veracity or otherwise of the complaints on the basis of which the petitioner has been asked to desist from rendering services as Archagar, constitute disputed question of fact, it would not be appropriate for this Court to go into the same, in this writ petition. The provisions of Section 21A of the HR&CE Act provide for a remedy by way of challenge to any proceedings passed under the Act, before the Commissioner. Though the impugned order may not constitute a proceeding under this Act, it would be a more appropriate remedy and Mr. Ashok Kumar expresses no objection to

the petitioner taking recourse thereto. Thus, this writ petition is dismissed, however, granting liberty to the petitioner to challenge the impugned order by way of statutory remedy within a period of four (4) weeks from today. Such appeal, if instituted within the time line as aforesaid, shall be taken on file without reference to limitation and disposed after hearing the petitioner as expeditiously as possible. Connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dr.Balasundram Road, Coimbatore.

2.The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Department,
Tiruppur.

+1cc to Mr.V.P.K.Gowtham, Advocate, S.R.No. 23212

+1cc to the Special Government Pleader(HR & CE), S.R.No.23776

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PA (CO)

GN(29/06/2021)

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