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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.3922 and 3923 of 2017

A.Radhakrishnan ... Petitioner in both W.Ps

Vs

1. The Secretary to Government
Tourism, Culture & Endowments Department,
Secretariat, Chennai - 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowment Department,
No.119, Uthamargandhi Salai,
Nungambakkam, Chennai - 600 034.
3. The Director,
Vigilance & Anti Corruption,
293, MKN Road,
Alandur, Chennai - 600 016.
4. The District Magistrate/District Collector,
Salem District, Salem.
5. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Salem Town.
6. The Assistant Commissioner/Executive Officer/Fit Person
Arulmigu Sugavaneswarar Swamy Thirukoil,
Salem Town.
7. The Executive Officer,
Arulmigu Alagirinathar Swamy Temple,
Fort, Salem Town.

... Respondents in W.P.No.3922 of 2017

1. The Commissioner,
Hindu Religious & Charitable Endowment Department,
No.119, Uthamargandhi Salai,
Nungambakkam, Chennai - 600 034.



2. The District Magistrate/District Collector,
Salem District, Salem.

3. The Commissioner of Police,
Salem City, Salem.

4. Krishnan. C
Assistant Commissioner,
Hindu Religious and Charitable Endowment
Department, Namakkal,
Namakkal District.

5. The Assistant Commissioner/Executive Officer/Fit Person
Arulmigu Sugavaneswarar Swamy Thirukoil,
Salem Town.

... Respondents in W.P.No.3923 of 2017

Prayer in W.P.No.3922 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 25.01.2017 and take suitable action in accordance with law within time bound manner.

Prayer in W.P.No.3923 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to take appropriate action against the persons who failed to perform 12.00 noon veneration it is called as "cr; rpf; fhy g{i\$" in Arulmigu Rajaganapathy Thirukoil at Salem and also direct the 5th respondent to return the sum of Rs.3 lakhs with interest in favour of the petitioner which is deposited through miscellaneous Receipt No.017220 dated 08.03.2016 for the said purpose by considering petitioner's representation dated 14.02.2017.

For Petitioner : Mr.R.Marudhachalamoorthy
in both W.Ps

For Respondents : Mr. G.Sarath Babu
for Mr.NRR.Arun Natarajan,
Government Advocate in both W.Ps

COMMON ORDER

This common order will govern both captioned writ petitions (WPs in plural and WP in singular for the sake of brevity, convenience and clarity).



2. In this order, for the sake of convenience, W.P.No.3922 of 2017 shall be referred as I WP and W.P.No.3923 of 2017 shall be referred as II WP.

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3. Mr. R. Marudhachalamoorthy, learned counsel representing the counsel on record for the writ petitioner is before this virtual Court. Mr. G. Sarath Babu, learned counsel representing Mr. NRR. Arun Natrajan, learned State Counsel is before this Court on behalf of all the respondents in both the writ petitions.

4. Captioned writ petitions (I WP and II WP) pertain to Arulmigu Sugavaneswarar Swamy Thirukoil, Salem Nagar, Salem Taluk, Salem District, Salem - 636 001 (hereinafter 'said temple' for the sake of convenience and clarity). I WP pertains to Car (தேர்) in the said temple and II WP pertains to poojas at noon [உச்சிக் கால பூஜை].

5. Learned counsel for the writ petitioner submits that with regard to both the aforementioned issues qua said temple i.e., Car and Uchikala Poojai, separate representations have been sent to said temple. Learned counsel on instructions submits that notwithstanding the expansive and elaborate prayers in the captioned writ petitions, writ petitioner abridges and restricts the prayer to a simple mandamus to the Commissioner of 'Tamil Nadu Hindu Religious and Charitable Endowment Department' (hereinafter 'TN HR & CE Dept.' for the sake of brevity, convenience and clarity) to dispose of the two representations. This submission is recorded.

6. Learned State counsel submits that owing to the abridged prayer, it would be appropriate that the commissioner considers the representations on their own merits in accordance with law and the obtaining legal position. There is no difficulty in accepting this submission. Adverting to the counter-affidavit in I WP, learned State counsel submits that the jurisdictional Assistant Commissioner of TN HR & CE Dept. (sixth respondent) has averred that the representation and the grievance articulated/ventilated therein has been duly addressed, but I refrain myself from expressing any opinion on the same as I propose to direct the Commissioner of TN HR & CE Dept. to dispose of the representations on their own merits and in accordance with law.

7. No further discussion or dilation on facts is required



owing to the simple trajectory the matter has taken today.

8. Captioned writ petitions are disposed of by making the following order:

(a) Representation dated 25.01.2017 regarding Car in I WP i.e., W.P.No.3922 of 2017 being representation dated 25.01.2017 at pages 8 to 11 of the typed set of papers shall be considered and disposed of by the second respondent i.e., Commissioner, TN HR & CE Dept. on its own merits and in accordance with law as expeditiously as his official business would permit and in any event, within 12 weeks from today i.e., on or before 17.12.2021;

(b) To be noted, though it is averred that the representation is dated 25.01.2017, a perusal of the typed set of papers brings to light that it is a representation signed on 25.1.2017 as the representation does not contain any date;

(c) Representation dated 14.02.2017 in II WP regarding உச்சிக் கால பூஜை i.e., noon poojas qua said temple shall be considered by the first respondent in the II WP i.e., Commissioner, TN HR & CE Dept. on its own merits, in accordance with law and dispose of the same as expeditiously as his official business would permit and in any event, within 12 weeks from today i.e., on or before 17.12.2021;

(d) The Commissioner, TN HR & CE Dept. shall consider and dispose of/ pass orders uninfluenced by anything that might have the trappings of an expression of opinion/view on merits in this order, though there is none;

(e) The proceedings/orders disposing of the aforesaid two representations shall be duly communicated to the writ petitioner under due acknowledgement within seven working days from the date of disposal.

(f) In the course of disposal of the representations, though obvious it is made clear that it is open to the Commissioner, TN HR & CE Dept. to call for further inputs, information, if deemed necessary and also consider the request of said temple, if deemed necessary and appropriate.

9. Captioned writ petitions are disposed of by this common order, with the aforementioned directives. There shall be no order as to costs.

10. It is made clear that this order being passed by this



Court in its capacity as parens patriae based upon the order passed in A.A. Gopalakrishnan vs Cochin Devaswom Board & Ors case reported in (2007) 7 SCC 482, more particularly, paragraph 10, as there are no averments in writ affidavit that satisfy the ingredients/determinants of 'person having interest', which is defined under Section 6(15) of TN HR & CE Act. In other words, this question is left open in this matter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mmi/nst

To

1. The Secretary to Government
Tourism, Culture & Endowments Department,
Secretariat,
Chennai - 600 009.
2. The Commissioner,
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8. The Commissioner of Police,
Salem City, Salem.

9. The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Department, Namakkal,
Namakkal District.

+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.49727

+1cc to the Government Pleader, S.R.No.49611

W.P.Nos.3922 and 3923 of 2017

GPL (CO)
SU (12/10/2021)