



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1822 of 2021

and

W.M.P. (MD)No.1554 of 2021

WEB COPY

1.D.Durai Srinivasan

2.S.Gopalakrishnan

3.D.Raju

... Petitioners

Vs

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Nungambakkam,
Chennai-600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Myladuthurai-609 001.

3.M.Padmanabhan

4.M.Rakeshkumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order in Se.Mu.Na.Ka.No.2881/2020/Aa2, dated 23.12.2020, made by the second respondent insofar as recommending for the appointment of an Executive Officer by invoking Section 45(1) of the TN HR & CE Act and to quash the same alone is concerned.

For Petitioners	: Mr.Vasuda Thiyagarajan for Mr.R.Thiyagarajan
For R1 & R2	: Mr.K.P.Narayana Kumar Special Government Pleader
For R3 & R4	: Dispensed with

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents. Considering the nature of relief to be granted, notice to the respondents 3 and 4 is dispensed with. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



2.The petitioners are the trustees of the petition mentioned temple. The private respondents herein lodged a complaint alleging mismanagement of the affairs of the temple. The complaint was lodged before the Joint Commissioner, HR & CE Department, Myladuthurai. Since action was not taken on the said complaint, it appears that the private respondents even filed a writ petition seeking disposal of their representation. The second respondent conducted an enquiry and came to the conclusion that the allegations made against the petitioners herein have not been substantiated. However, recommendation for appointing an executive officer under Section 45 (1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, was issued. Aggrieved by this recommendation, the writ petition came to be filed.

3.It is well settled that a mere recommendation is not amenable to challenge in the writ jurisdiction. Only if the legal right of the petitioner is infringed, writ petition will lie. But then, the learned counsel appearing for the petitioners would point out that the second respondent clearly went beyond his brief. Section 45(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 confers jurisdiction only on the commissioner to appoint an executive officer. As a result of the impugned recommendation, the petitioners would be endlessly embarrassed. I am satisfied that it was absolutely unnecessary for the second respondent to have made a recommendation of this nature, When the situation did not clearly warrant the same. The private respondents had lodged a complaint against the petitioners and the second respondent was called upon to enquire into the same. The second respondent came to the conclusion that the allegations made by the private respondents were not at all substantiated. The matter should have been ended there. There was no need for adding sting in the tail. I make it clear that while it is open to the first respondent to take independent action on his own, he will not be guided by the recommendation made by the second respondent in the impugned order.

4.The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

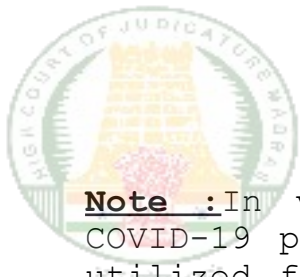
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
Nungambakkam,
Chennai-600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Myladuthurai-609 001.

+1 CC to GP (SR-3537[F] dated 05/02/2021)

+1 CC to Mr.R.THİYAGARAJAN, Advocate (SR-3442[F] dated 05/02/2021)

W.P. (MD)No.1822 of 2021

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(ES)
KV(23.02.2021) 3P 5C