



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.15996 of 2021

and

W.M.P(MD).No.12907&12908 of 2021

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Manjadiumman Temple, Krishnan Vagai Samudhayam,
Soorappallam Pidagai, Rep by its President,
N.Ayyappan,

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam, High road,
Chennai - 34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Tirunelveli.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Nagercoil,
Kannayakumari District.

4.The Inspector,
Hindu Religious and Charitable Endowments,
Nagercoil West,
Kannayakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned pre determined show cause notices issued by the fourth respondent dated 09.04.2021, and 27.04.2021 and also consequential show cause notice issued by third respondent vide Na.Ka.No. 1310/2021/AA3 dated 07.05.2021 and quash the same as illegal and consequently direct the third respondent to drop the proceedings by considering objection submitted by the petitioner's temple dated 11.05.2021,17.05.2021 and 05.06.2021 and other villagers.

For Petitioner : Mr.K.P.Narayanakumar
For Respondents : Mr.P.Subbaraj
Counsel for the State



ORDER

The petitioner challenges three show cause notices. The show cause notices dated 09.04.2021 and 27.04.2021 issued by the fourth respondent and the show cause notice dated 07.05.2021 issued by the third respondent.

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2.The petitioner states that he is the President of the Manjadiyamman Temple owned by the Krishnan Vagai Samudhayam people residing at Soorapallam. It is stated that the aforesaid community has managed the said temple for about 150 years. According to the petitioner, a dispute arose between Kolappa Pillai and Manikandan and such dispute was carried to the civil courts. Pursuant thereto, Manikandan's brother, namely, Vishnu, filed a writ petition before this Court in W.P.No.13344 of 2021. The said writ petition was filed on the basis of alleged irregularities in the management of the temple. This Court, by order dated 08.02.2021, disposed of such writ petition by directing the third respondent therein, namely, the Assistant commissioner of the HR & CE Department to proceed with the inquiry on the basis of the petitioner's complaint dated 29.08.2019. However, it is stated that the Court did not record any findings on the merits.

3.The petitioner contends that he is entitled to assail the three show cause notices because such show cause notices reveal that the authorities have prejudged the matter. By drawing reference to the notice dated 27.04.2021, the petitioner points out that the order of this Court in W.P.(MD).No.13344 of 2020 was misconstrued as if the court directed the authorities to bring the temple within the control of the HR&CE Department within a period of four months. Likewise, by referring to the impugned notice dated 07.05.2021, it is pointed out that the authority seems to have concluded in a predetermined manner that the management is not looking after the affairs of the temple properly and that, therefore, it has become necessary to appoint a Thakkar in accordance with Section 49(1) of the HR&CE Act,1959.

4.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of all the respondents. He points out that the impugned notice dated 07.05.2021 is not addressed to the petitioner and that it is addressed to one Hariharan. In addition, he submits that it is always open to the petitioner to submit objections in response to the impugned notices since no final decision has been reached as on date.

5.In judicial review, ordinarily, the court does not interfere with a show cause notice. One of the recognized exceptions to this rule is if the show cause notice has been issued by a person who ex facie lacks jurisdiction. The petitioner contends that the fourth respondent, who issued the notices dated 09.04.2021 and 27.04.2021, does not have jurisdiction. While it may be true that the fourth respondent does not have the authority to issue an order to bring



the relevant temple within the jurisdiction of the HR & CE Department, it cannot be said that the Inspector ex facie lacks the authority to issue the show cause notices.

6.The principal contention of the petitioner is that the authorities have prejudged the matter. This contention definitely merits consideration especially in the light of the statement in the notice dated 27.04.2021 that this Court by order dated 08.02.2021 in W.P.(MD).No.13344 of 2021 directed the authorities to bring the temple concerned within the control of the HR&CE Department within a period of four months. A plain reading of the order of this Court indicates that the Court did not go into the merits of the matter. Therefore, the Inspector who issued the notice dated 27.04.2021 clearly misconstrued the purport and scope of the order dated 08.02.2021. Likewise, the first paragraph of the impugned notice dated 07.05.2021 also indicates *prima facie* that the authority has concluded that there is mis-management.

7.In the aforesaid facts and circumstances, the petitioner should be provided an opportunity to raise objections or provide an explanation in response to the impugned notices. Therefore, the petitioner is permitted to submit an explanation or raise objections to the three impugned notices within a period of two weeks from the date of receipt of a copy of this order. If the petitioner requests for a personal hearing, the authorities concerned are directed to provide such personal hearing also. Upon receipt of the petitioner's explanation or objections, the third respondent is directed to issue a reasoned order after taking into account the objections of the petitioner and the observations set out in this order. Such reasoned order shall be issued within a period of three months from the date of receipt of the objections or explanation from the petitioner.

8.W.P.(MD).No.15996 of 2021 is disposed of on these terms without any order as to costs. Consequently, connected W.M.P.(MD).Nos.12907&12908 of 2021 are closed.

Sd/-

Assistant Registrar (AS)

// 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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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Nagercoil West,
Kannayakumari District.

+1 CC to M/s.K.P. NARAYANA KUMAR, Advocate (SR-28631[F] dated
09/09/2021)

+1 CC to M/s.GP (SR-28703[F] dated 09/09/2021)

W.P(MD).No.15996 of 2021
08.09.2021

RS (17.09.2021) 4P 7C