



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2021

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THE HON'BLE MR. JUSTICE M.SUNDAR

W.P(MD) No.19862 of 2021

and W.M.P. (MD) No.16574 of 2021

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R.Kannan

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Commissioner,
Hindu Religious and Charitable Endowments,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Chidambara Nagar,
Thoothukudi,
Thoothukudi District.

4.The Assistant Commissioner/Thakkar,
Hindu Religious and Charitable Endowments,
Main Road, Courtallam,
Tenkasi.

5.The Executive Officer,
Arulmigu Cauvery Ayyan Sastha Thiurkovil,
Keezhapuliur,
Office at: Kasi Vishwanathar Thirukovil,
Tenkasi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings passed by the 2nd respondent in Moo.Mu.No.60812/2021/H3 dated 17.09.2021 as well as the consequential proceedings passed by the 5th respondent in Na.Ka.No.233/2021/E5 dated 11.10.2021 and quash the same..

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.A.Baskaran,
Govt. Advocate (Civil Side)
for R1 to R4

Mr.M.Muthugeethayan for R5

**ORDER**

Mr.M.P.Senthil, learned counsel for Writ Petitioner is before this Court.

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2. In the captioned writ petition, an 'order dated 17.09.2021 bearing reference முழு.எண்.60812/2021/ந3' (hereinafter 'first impugned order' for the sake of convenience and clarity) made by the second respondent has been called in question, besides assailing another proceedings 'dated 11.10.2021 bearing reference ந.க.எண்.233/2021/இ5' made by the fifth respondent (hereinafter 'second impugned order' for the sake of convenience and clarity).

3. There is no disputation that the second impugned order made by the fifth respondent is merely consequential and challenge to the same would depend entirely on the fate of the first impugned order.

4. In the Admission Board, Mr.A.Baskaran, learned Government Advocate (Civil Side) accepted notice on behalf of respondents 1 to 4 and Mr.M.Muthugeethayan, learned counsel accepted notice on behalf of fifth respondent (Executive Officer of Arulmigu Cauvery Ayyan Sastha Thirukovil).

5. Owing to the narrow compass on which the captioned writ petition turns, with the consent of all the aforementioned counsel, main writ petition is taken up though the matter is in the Admission Board.

6. Adverting to the first impugned order, learned counsel for writ petitioner submitted that it is statutorily imperative for the second respondent to have given a reasonable opportunity to the parties concerned to make their representations if any before exercise of veto power under Rule 13.

7. Before proceeding further, it is to be noted that in the first impugned order, the reference is to Rule 13 of Rules made under Section 116(2)(xiii) of 'The Tamil Nadu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' (hereinafter 'TN HR & CE Act'). Title of the Rule has not been given. Section 116 of TN HR&CE Act is rule making power which delegates rule making power to the Government. In exercise of such rule making power, several subordinate legislations have been made and one such subordinate legislation made under clause (xiii) therein goes by the name 'The Religious Institutions (Lease of Immovable Property) Rules, 1963' (hereinafter 'said Rules' for the sake of convenience and clarity).



8. There is no disputation or disagreement before this Court that the first impugned order has been made under Rule 13 of said Rules, which reads as follows:

'13.Veto by Commissioner.- The Commissioner shall have the power to veto such lease for reasons to be recorded in writing after giving a reasonable opportunity to the parties concerned to make their representations, if any.'

9. A perusal of the aforesaid Rule makes it clear that the second respondent Commissioner certainly has veto power but the exercise of the same is circumscribed by a statutory requirement of giving reasonable opportunity to the parties concerned.

10. A perusal of the impugned order does not demonstrate that any opportunity has been given to the writ petitioner. From the impugned order itself, it is clear that the writ petitioner will qualify as a 'party concerned' as the name of the writ petitioner is mentioned in the impugned order and it also mentions that he has been given certain fishing rights for the Fasli 1431 (Fasli 1431 translates to year 2021 in the Gregorian calender).

11. Therefore, the impugned order is set aside on the aforementioned short point without expressing any opinion on the merits of the matter. The sequitur is, proceedings dated 11.10.2021 made by the fifth respondent would also stand neutralized/set aside.

12. In the light of the narrative thus far impugned orders are set aside and the matter is now remanded back to the second respondent (The Commissioner) for a decision qua Rule 13 of said rules (to be noted, said Rules is a piece of subordinate legislation as already alluded to supra) after giving a reasonable opportunity to the writ petitioner.

13. Though obvious, as already alluded to supra, it is made clear that this Court has not expressed any opinion on merits of the matter and all questions including questions raised in the captioned writ petition are left open.

14. A decision qua order under Rule 13 of said Rules shall be taken as expeditiously as the business of the second respondent would permit (after giving a reasonable opportunity to the parties concerned to make their representations if any) and in any event, within three weeks from today i.e., on or before 29.11.2020.

15. Captioned W.P. (MD) No.19862 of 2021 is disposed of in the



above manner. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar (CS)

vsm

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

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Main Road, Courtallam,
Tenkasi.

+1 CC to M/s.M.P. SENTHIL, Advocate (SR-33698[F] dated 08/11/2021)

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-33699[F] dated 08/11/2021)

+1 CC to M/s.SPL.GP (SR-33798[F] dated 09/11/2021)

**W.P (MD) No.19862 of 2021
and W.M.P. (MD) No.16574 of 2021
08.11.2021**

PS (CO)

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