



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.1599 OF 2022

AND

W.M.P.NO.1738 OF 2022

Arulmighu Pavalavannar and Pachaivannar
Devasthanam, Rep.by its Hereditary Trustee
C.Adhilakshmi,
W/o Balaji residing at
No.12A, Calendar Street,
Kancheepuram.

...Petitioner

Vs

- 1.The Commissioner
Hindu Religious & Charitable Endowments
Department, Nungambakkam High Road
Nungambakkam,
Chennai 600 034.
- 2.The Joint Commissioner
Hindu Religious and Charitable Endowments
Department,
Kanchipuram - 631 501.
- 3.The Assistant Commissioner
Hindu Religious and Charitable Endowments
Department,
Kanchipuram - 631 501.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records from the second respondent herein pertaining to the impugned notice in Na.Ka.No.3384/2021/B2 dated 31.12.2021 and quash the same.

For Petitioner : Mr.S.Prabhu

For Respondents : Mr.S.Yashwanth
Additional Government Pleader (HR & CE)



O R D E R

The enquiry call letter issued by the Joint Commissioner of H.R.&C.E., Department dated 31.12.2021 is under challenge in the present writ petition.

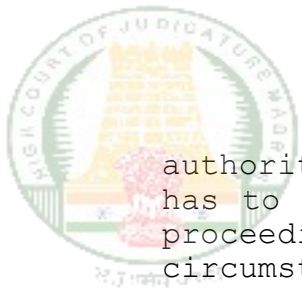
WEB COPY

2. The petitioner states that, she is a hereditary trustee of Arulmighu Pavalavannar and Pachaivannar Swamy Devasthanam, Kanchipuram and the petitioner was recognized as a hereditary trustee by the Department. The petitioner states that the temple is one amongst the 108 Vaishnavite temples called Divyadesams and the temple deities were offered Mangalasasanam by one of Alvars namely Thirumangai Alwar. The temple has many properties and there are several allegations of frauds, illegalities and violations in respect of dealing with the properties.

3. Mr.S.Prabhu, learned counsel for the petitioner made a submission that the petitioner, in her capacity as a hereditary trustee, appeared for the enquiry before the Joint Commissioner and submitted certain documents. However, again she is called for further enquiry and under these circumstances, the petitioner states that she is unnecessarily called for many enquiries despite the fact that she has already submitted her reply. The learned counsel for the petitioner is of the opinion that the Joint Commissioner is repeatedly calling for an enquiry and therefore the impugned enquiry notice is liable to be set aside.

4. Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents made a submission that, when informations regarding large scale illegalities are brought to the notice of the authorities of the HR & CE Department, they are bound to initiate all necessary actions. In the case of the subject temple, actions are initiated and during the process of conducting enquiry, all the persons concerned are called to submit their respective documents for verification to cull out the truth behind the allegations raised against the temple administration and the persons dealing with the temple properties. The process of enquiry need not be stalled unnecessarily and the petitioner, as a hereditary trustee, is bound to cooperate for the enquiry in order to cull out the truth regarding the allegations received by the Department.

5. No writ against an enquiry notice needs to be entertained in a routine manner by the High Court under Article 226 of the Constitution of India. A writ against any notice can be entertained only on limited grounds viz., if the same has been issued by an incompetent authority having no jurisdiction or if an allegation of malafides are raised. Even in such case, the



authority against whom such allegation of malafides is raised, has to be impleaded as one of the party respondents in the writ proceedings in his personal capacity. In all other circumstances, the person who received the notice, here in the case on hand the hereditary trustee, is bound to cooperate with the enquiry in the interest of the temple and for protection of the temple properties, jewelleryes and belongings. The hereditary trustee cannot raise a ground that he/she is unnecessarily called upon to give explanation. The hereditary trustee is also a part of the temple administration therefore will be having knowledge about the activities of the temple and more so, in respect of the temple properties and manner in which such properties are dealt with by the authorities as well as the administrators. Therefore, the hereditary trustee is also a person concerned and must be enquired into properly for the purpose of culling out the truth behind the serious allegations raised in the matter of dealing with the properties of the temple.

6. There are large scale allegations / complaints across the State of Tamil Nadu in the matter of dealing with the temple properties, jewelleryes and belongings. Long back the Government took a policy decision to take over the temple properties from private persons, trustees and organizations and the H.R.&C.E. Act., was enacted for the purpose of protection and maintenance of temple and its properties in the interest of public. In spite of the Act which is in force, the authorities competent are not efficient enough in implementing the Act and Rules scrupulously. This resulted in large scale illegalities in dealing with the properties. These illegalities in respect of the temple properties are going on for several years. The noble souls had donated their hard earned money and valuable properties for doing services to the temple and to the devotees. The very purpose for which such properties and jewelleryes were donated to the temple is being abused and misused by the administrators which can never be tolerated by the Courts. Once the Government took over the institutions, the authority who is vested with the power under the Statute must ensure that such organizations are protected and maintained in the interest of public and the purpose for which such organizations are constituted. This being the Constitutional mandate of the Government, any Government of the day is expected to bear in mind that after taking over the administration of temple or any other organization as a matter of fact, deal with the properties and belongings in appropriate manner and scrupulously in accordance with the provisions of the Act and Rules. In the event of any lapses, negligence or dereliction of duty or otherwise on the part of the officials, stern actions are to be initiated fixing personal liability on such officials to protect the temple properties and to recover the financial loss or



damage if any caused to the temple properties, jewelleries and belongings etc.,

7. If the Government is unable to deal with the properties in an appropriate manner in accordance with the provisions of the Act and Rules, then an inference is to be drawn that the authorities are not competent enough to maintain the temple in accordance with the provisions of the Act and Rules. Religious institution is the sentiment of the people at large. Such sentiments of the people are to be respected in the manner prescribed under law. The Constitution of India provides religious freedom which is a fundamental right. When a group of people construct a temple and their sentiments are attached to the temple and they have donated their hard earned money to do service to the temple, then their wishes are to be honoured, in view of the fact that the Government has taken over the administration from those persons on the ground that there is likelihood of maladministration of the temple and in the interest of public.

8. When the temple administration is taken over across the State of Tamil Nadu in the interest of public, such public interest, as enunciated in the Constitution of India and consequent Statutes are to be scrupulously followed and in the event of failure, it must be declared as a failure on the part of the H.R.&C.E., Department and immediate reformation within the department is imminent and warranted.

9. In the present case, the learned counsel made a submission that the petitioner herself has initiated action for the purpose of initiation of action against the illegalities in the matter of dealing with the temple properties. This Court is of the considered opinion that the actions taken by the petitioner for restoration of temple properties is one aspect of the matter, but in respect of the enquiry conducted by the officials, the petitioner is bound to participate and cooperate for the purpose of restoration of temple properties and to recover the losses or damages as the case may be. Therefore, the petitioner being a hereditary trustee, cannot wash off her hands in respect of the temple properties or simply escape from the clutches by merely stating that she has also initiated action. Once the competent authority under the provisions of the Act initiated an enquiry proceedings, then all concerned are expected to cooperate and a reasonable opportunity has to be provided to all those persons. In the absence of any cooperation, the competent authority is bound to proceed further and initiate all further action against the persons concerned in order to deal with the issues and arrive at a finality. It is not necessary that the authorities must give adjournment after adjournment in a mechanical manner with an idea to prolong and

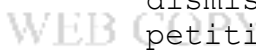


protract the issues. Once the enquiry is taken up, such an enquiry must be concluded as expeditiously as possible and the prolongation will not only dilute the issues, but also provide an opportunity to the doers of such illegalities to continue such illegalities. Therefore, the authorities are expected to bear in mind that on initiation of enquiry, such enquiry must be concluded as expeditiously as possible and in the event of non-action by any person concerned, such non-action must be recorded in the proceedings and proper decisions are to be taken in accordance with the provisions of the Act and Rules.

10. The litigants are also now adopting the tactics of prolongation by filing writ petition after writ petition at each stage of enquiry. Such writ petitions cannot be encouraged by the High Courts. For each and every notice writ petitions are filed. Those writ petitions are not even fit to be admitted by the High Court. Therefore, the maintainability of the writ petitions is the primary issue which has to be considered at the stage of admission by the High Courts. Such writ petitions filed with an idea of prolongation and protraction of the issue and with a motive to escape from the clutches of law must be dealt with in an appropriate manner. Thus, the Courts cannot encourage such a practice of admitting such writ petitions.

11. In the present case, the enquiry call letter is under challenge. The petitioner is at liberty to place all the explanations or reply to the authorities concerned and cooperate for the purpose of recovery of temple properties in the manner known to law. The very filing of the writ petition itself raises a doubt in the mind of the authorities as instead of cooperating, the petitioner has chosen to file the writ petition. Therefore, the authorities are bound to conduct the enquiry in a speedy manner and conclude the same as expeditiously as possible and initiate all further action for recovery of temple properties and to recover the financial loss or damages, if any.

12. In this view of the matter, the petitioner is directed to cooperate with the enquiry by the competent authorities of the H.R.&C.E., Department and in the event of non-cooperation, the respondents shall record such non-cooperation in the proceedings itself and continue to proceed with the enquiry and conclude the same as expeditiously as possible and initiate all further action, which all are necessary to protect the temple properties, jewelleries and belongings and to recover the properties and deal with the same in the interest of the temple in accordance with the provisions of the Act and Rules. It is made clear that the respondents shall fix the date and time of enquiry and communicate the same to the petitioner and if a particular date is fixed, the authorities must ensure that the



13. With the above observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

```
// True Copy //
```

PMK (CO)
RVM (17/02/2022)