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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.NO.5344 OF 2022

AND

WMP.NO.5431 OF 2022

A.P.Raja

...Petitioner

Vs

1.The Joint Commissioner,  
Hindu Religious and Charitable Endowments,  
Salem.

2.The Assistant Commissioner,  
Hindu Religious and Charitable Endowments,  
Salem.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the proceedings in SA.MU.NA.KA.No.4692/2021/E1 dated 18.02.2022, on the file of the 1<sup>st</sup> respondent and to quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.S.Yashwanth  
Additional Government Pleader[H.R & C.E]

ORDER

This Writ Petition is filed seeking to call for the records of the proceedings in SA.MU.NA.KA.No.4692/2021/E1 dated 18.02.2022 on the file of the 1<sup>st</sup> respondent and to quash the same as illegal, incompetent and without jurisdiction.

2.Heard the learned counsel appearing for the petitioner as well as Mr.S.Yashwanth, the learned Additional Government Pleader [HR & CE], who takes notice for the respondents and perused the materials on record.

3.According to the petitioner, Arulmighu Mariamman, Cheliaamman, Chennarayar Perumal Temple is a non-listed temple



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and managed by the petitioner's family for the past 14 generations. The petitioner is the present Hereditary Trustee of the temple. In the year 2011, based on the complaint that the temple and properties of the temple are not properly managed by the petitioner, a show cause notice was issued to the petitioner stating the various alleged mismanagements. The petitioner submitted his reply and after enquiry, the said complaint was closed as there was no material to prove the complaint. Again in the year 2019, a complaint was lodged by one Jayaraman based on certain records of the temple and it is not known as to how the said Jayaraman has got access to the records of the temple and he filed W.P.No.21674 of 2019. As per the interim order passed by this Court on 06.09.2019 and 18.10.2019, the 2<sup>nd</sup> respondent called the petitioner for enquiry on 23.03.2020. The petitioner appeared for enquiry and submitted his explanation. Again the 2<sup>nd</sup> respondent issued notice alleging that the temple is not properly maintained and the petitioner has given explanation denying the allegations. The complaint lodged against the petitioner by Jayaraman, Srinivasan, Rathinam emanate from the same place and appears to have been typed from the same machine. The said complaints are made without considering that the earlier complaint was closed in the year 2011 itself and the explanation was already given by the petitioner. The 1<sup>st</sup> respondent cannot once again issue notice for the same allegations in the year 2022 and the impugned order passed is illegal and prayed for allowing the Writ Petition.

4.From the above materials, it is seen that the 1<sup>st</sup> respondent by impugned order dated 18.02.2022, under Section 53 (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (hereinafter referred as 'the Act, in short), temporarily suspended the petitioner from the post of Hereditary Trustee and as per Section 53(4) of the Act, appointed Executive Officer of Arulmighu Mariamman, Cheliaamman, Chennarayar Perumal Temple, Salem as fit person of the said temple. The petitioner has challenged the order passed under Section 53(2) and 53(4) of the Act. As per Section 53(5) of the Act, order passed by the 1<sup>st</sup> respondent is appealable to the Commissioner, Hindu Religious and Charitable Endowments, Salem. The petitioner has approached this Court without exhausting effective appeal remedy. In view of the availability of appeal remedy to challenge the impugned order, the Writ Petition is not maintainable and hence, the Writ Petition is liable to be dismissed.

5.Accordingly, this Writ Petition is dismissed. However, it is open to the petitioner to file appeal, if he so desire or advised, within a period of two (2) weeks from the date of receipt of a copy of this order. If any such appeal is filed, the Commissioner, Hindu Religious and Charitable Endowments, Salem is directed to consider the same and pass order on merits



and in accordance with law, after hearing the petitioner and others parties concerned, if any, within a period of eight (8) weeks from the date of filing of the appeal. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Joint Commissioner,  
Hindu Religious and Charitable Endowments,  
Salem.
- 2.The Assistant Commissioner,  
Hindu Religious and Charitable Endowments,  
Salem.

+1cc to Mr.V.Raghavachari, Advocate, Sr.No.16011

+1cc to the Government Pleader, Sr.No.16347

W.P.No.5344 of 2022

SVI (CO)  
RVM(04/04/2022)