



W.P.No.5761 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2022

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

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K.V.Sankara Subramanian
Managing Trustee
Annadhanam Chatram at Kadayanallur
belongs to Chozhia Brahmins of Kadayanallur Village
D.No.6 Karimanickaperumal Koil East Street
Kadayanallur - 627 751.
Kadayanallur Taluk, Tirunelveli District.

... Petitioner

-Vs.-

1. The Secretary to Government
Hindu Religious and Charitable Endowment Department
Fort St.George, Chennai-600 009.
2. The Commissioner
Hindu Religious and Charitable Endowment
Nungambakkam
Chennai-600 034.
3. The Executive Officer
Chozhia Brahmins Annadhanam Trust at Kadayanallur/
Arulmigu Gopalakrishnaswamy Temple
Krishnapuram, Tenkasi Taluk
Tirunelveli District.

.. Respondents



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Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent herein to consider and dispose of the revision petition dated 27.07.2017 filed by the petitioner and followed by the reminder dated 03.02.2020 within the time frame.

For Petitioner : Mr.G.Nagarajan
For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader
for R1 & R2
Mr.R.Bharanidharan, for R3

ORDER

In the captioned main writ petition, Mr.G.Nagarajan, learned counsel for writ petitioner, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader who accepts notice on behalf of respondents 1 & 2 and Mr.R.Bharanidharan, learned private counsel who accepts notice on behalf of third respondent (Executive Officer of the temple concerned) are before this Court.

2. Owing to the narrow compass and limited prayer, with the consent of the aforementioned counsel main writ petition is taken up for disposal in the Admission Board itself.



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3. Owing to the limited prayer in main writ petition, it is not necessary to dilate much on facts. Suffice to say that the captioned matter pertains to a 'ANNADHANAM CHATRAM' qua Arulmigu Gopalakrishnaswamy Temple, situate in Krishnapuram, Tenkasi Taluk, Tirunelveli District. An Executive Officer was appointed for this entity and the same was assailed by writ petitioner before the second respondent and second respondent made a detailed order dated 03.03.2017 bearing reference No.செ.மு.ந.க.எண்.32888/2016/எல்5 rejecting the petitioner's prayer to cancel the appointment of Executive Officer who was appointed under Section 45(1) of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act No.22 of 1959)' [hereinafter 'TNHR&CE Act' for the sake of convenience and clarity].

4. Writ petitioner has carried the matter further to first respondent under Section 114 of TNHR&CE Act in and by a petition styled/captioned 'REVISION PETITION'.

5. Limited prayer in the captioned writ petition is for a directive to first respondent for disposal of the aforementioned petition which is at



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page Nos.36 to 42 of typed set of papers and a scanned and reproduction of the same is as follows:

BEFORE THE HON'BLE SECRETARY, H.R. & C.E. DEPARTMENT
FORT ST. GEORGE, CHENNAI - 600 009.

REVISION PETITION No. _____ of 2017

against

THE ORDER DATED 03.03.2017 AND MADE IN PROCEEDINGS
SE.MU.NA.KA.No.32888/2016/L.5
(on the file of Commissioner, HR & CE Department, Chennai - 600 034).

K.V.Shankara Subramanian,
Managing Trustee,
Annadhanam Chattram at Kadayanallur,
belongs to Chuchia Brahmins of Kadayanallur Village,
D.No.6, Kariamanickapuram Koil East Street,
Kadayanallur - 627 751,
Kadayanallur Taluk,
Tirunelveli District, ...Petitioner

-vs-

1. The Hon'ble Commissioner
Hindu Religious and Charitable Endowment,
Nungambakkam,
Chennai - 600 034.

2. The Executive Officer
Chuchia Brahmins Annadhanam Trust at Kadayanallur/
Arulmigu, Gopalakrishnaswamy Temple,
Krishnapuram, Tenkasi Taluk,
Tirunelveli District. ...Respondents

Sub: Revision under Section 114 of the HR&CE Act filed by K.V.Shankara Subramanian, Managing Trustee, Annadhanam Chattram at Kadayanallur, against the order dated 03.03.2017 passed by the Commissioner in Proceedings SE.MU.NA.KA.No.32888/2016/L.5 in the matter of Annadhanam Chattram at Kadayanallur, belongs to Chuchia Brahmins of Kadayanallur Village, D.No.6, Kariamanickapuram Koil East Street, Kadayanallur - 627 751, Kadayanallur Taluk, Tirunelveli District.

Ref: Revision Petition filed by Thiru. G.Nagarajan & T.Jeevanantham, Counsels, for the Petitioner dated 27.07.2017.

The address for service of all notices and processes of the Petitioner is that of his Counsels M/s. G.NAGARAJAN & T. JEEVANANDAM, Advocates at No.346/161, Thambu Chetty Street, Chennai - 600 001.

The address for service of all processes and notices on the Respondents are the same as stated above.



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1. The Petitioner is the Managing Trustee of Annadhanam Chatram at Kadayannallur, having his office at D.No.6, Kariamanickasperumal Koil East Street, Kadayannallur - 627 751, Kadayannallur Taluk, Tirunelveli District and the address for service of all processes and notices of the Petitioner is the same as stated above.

The address for service of all processes and notices on the Respondent is the same as stated above.

2. The Petitioner respectfully states that he is the Managing Trustee of Annadhanam Chatram at Kadayannallur, belongs to Chozhia Brahmins of Kadayannallur Village, Kadayannallur Taluk, Tirunelveli District and a permanent resident of Kadayannallur.

3. The Petitioner states that Annadhanam Chatram at Kadayannallur was founded by Chozhia Brahmins of Kadayannallur Village. The charities are performed by the contributions made by Chozhia Brahmins, Kadayannallur Village even today.

4. It is further stated that the rights of Chozhia Brahmin Community to be the Trustees and managing the affairs of the Annadhana Chatram, Kadayannallur had been duly declared vide Order dated 12.4.1969 in O.A.No.10/1965 on the file of Department for HR&CE Administration, Administration Department, Madurai, filed under Section 63(B) of Madras HR&CE Act 1959 by one Mr.V.Subramaniya Iyer, the then Trustee and Member of Chozhia Brahmin Community.

5. Accordingly Chozhia Brahmin Community Kadayannallur duly elect or nominate members of the Community as Trustees ever since from 1983 onwards to till now and the Petitioner is duly elected as Managing Trustee of Annadhanam Chatram with effect from 2015 and continue to hold the Trust as on date.

6. It is submitted that unfortunately as it was alleged some mismanagement of the affairs of the Annadhana Chatram by the erstwhile Trustees, by Proceedings No.RC.No.37457/84/L1 dated 19.11.1987 the Commissioner HR&CE Chennai, has appointed an Executive Officer, under Section 45(A) of the HR&CE Act 1959 to manage the affairs of the Trust alongwith the Trustees of Annadhanam Chatram. However on 23.09.1994 one Mr.G.Yagna Narayanan was elected as Managing Trustee of



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Annadhanam Chattram and after assuming the office, by letter dated 10.07.1996 he had made representation to the Commissioner, HR&CE, Chennai - 600 034, bringing to his notice that newly elected Trustees have assumed charge, but however the Executive Officer, the 2nd Respondent herein, did not handover the charges but continued to manage the affairs, hence the newly elected Trustees requested the Commissioner to withdraw the Executive Officer from the Committee of Annadhanam Chattram.

7. But unfortunately the aforesaid request was not considered by the Commissioner. Consequently the then Managing Trustee Mr.V.Subramania Iyer was constrained to file W.P.No.310/1989 on the file of High Court of Madras, challenging the order of appointment of Executive Officer dated 19.11.1987.

8. By Order dated 30.01.1997 the Hon'ble High Court was pleased to direct the Commissioner to look into the complaint against the Executive Officer and further directed to pass orders on the representations filed by the Trustees for the removal of the Executive Officer.

9. It is submitted that however the Commissioner HR&CE, by order dated 21.09.1998 and made in Se.Mu.Na.Ka.16580/97/L1 again confirmed the order of appointment of Executive Officers with a direction to the Executive Officer to act according to the directions of the elected Trustees and with their previous permissions and resolutions.

10. It is submitted that as against that order another writ petition was filed to quash that order before the High Court of Madras vide Writ Petition No.18740/1998. By order dated 05.09.2006 the Hon'ble High Court was pleased to pass the following order:

"When the Writ Petition is pending, the term of the earlier trustees against whom respondent has taken a stand that they are mismanaging the affairs of the temple has already been over and new trustees have been elected and the very election of the new trustees has also been informed to the Joint Commissioner to take appropriate action in the sense to recall the Executive Officer. Hence, this Court is of the view that the ends of Justice would be met if a direction is issued to the Joint Commissioner to proceed further in accordance with law on the letter of the Petitioners informing the Joint Commissioner about the election of the new Trustees on 23.05.2006.

With the above observations, the Writ Petition is disposed of."



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11. It is submitted that pursuant to the aforesaid order of this Hon'ble High Court dated 05.09.2006 by Proceedings No.Se.Mu.Na.Ka.No.12777/ 2005-A1 dated 25.10.2006 the Joint Commissioner, HR&CE, Tirunelveli had directed the Executive Officer to handover all the charges to the then Trustee Mr S.Hariharan. But however to the utter shock, a telegram was sent by the Joint Commissioner on 09.12.2006 directing the Executive Officer to continue in the Annadhanam Committee, which the Trustees objected by letter dated 25.02.2011, but however the Joint Commissioner, HR&CE, Tirunelveli has informed that the Executive Officer, appointed in the Committee will continue and function as per the regulations issued by the Commissioner at the time of his appointment.

12. It is submitted that even though the Trustees have been repeatedly requesting the Hon'ble Commissioner, HR&CE to withdraw the Executive Officer from the Annadhana Chatram, since there is no necessity to keep the Executive Officer, the 2nd Respondent herein, in the affairs of the Annadhana Chatram, they were not at all considered by the Commissioner. It is also pertinent to note that actually due to some alleged mismanagement by the erstwhile Trustees, the Executive Officer was appointed to be the incharge of affairs of Annadhana Chatram alongwith Trustees that too in 1987, subsequently for the past 29 years the affairs of Annadhana Chatram is properly managed by the Trustees nominated/elected from the members of the Chozhia Brahmin Community and the question of continuing the Executive Officer, the 2nd Respondent herein, in the management is absolutely unnecessary and unwarranted. It is interesting to note that the funds to carry on the activities of Annadhana Chatram is provided by the Chozhia Brahmin Community. Further the continuance of Executive Officer, even after the contingencies are over, is contrary to the terms of declaratory decree passed in O.A.No.10/1965 under Section 63 (B) of the HR&CE Act 1959.

13. At this stage it is pertinent to note that Annadhana Chatram doing several charities mentioned below :

1. Annadhanam for Yathirakas 70 persons per month 30 bags of paddy per year.
2. Annadhanam for poor 15 persons per month, 12 bags of paddy per year.
3. Upanayanam 12 per year 12 bags of paddy per year.



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4. Marriage 24 pages of Paddy per year.
 5. Educational Aid for 10 persons per year.
 6. On the death of person first day expenses for 10 persons per year.
 7. Payment to Vadhiar who teaches all irrespective of age, slogans, Sankrit, all cultural importance and how to follow and mantras.
- the funds of Annadhana Chatram should be utilized.

14. At this stage it is painful to state that the very purpose of keeping the Executive Officer incharge of affairs of Annadhana Chatram alongwith the Trustees are given go by, by the past and present Executive Officer, the 2nd Respondent herein, and the details of various inaction and lapses on the functioning of Executive Officer are separately annexed with this Revision Petition.

15. Under these circumstances, the Petitioner as already stated the various representations requesting the Commissioner, HR & CE Department, Chennai, to remove the Executive Officer, as there was no necessity to continue the Executive Officer and further the continuous of the Executive Officer is in violation of the decree dated 12.04.1969 and made in O.A.No.10/1965 on the file of Department of HR&CE Administration, Madurai, passed under Section 63(B) of Madras HR&CE Act 1959.

16. Unfortunately as all the Representations including the representation dated 06.07.2016 was not taken into consideration by the Commissioner, HR&CE Department, the Petitioner was constrained to file W.P.No.43313 of 2016 on the file of High Court Madras, seeking the relief to direct the Commissioner, HR&CE Department, to consider the representation dated 06.07.2016 and pass orders. By order dated 15.12.2016 the Hon'ble High Court Madras has been pleased to pass an order directing the Commissioner, HR&CE Department to consider the Petitioner's representation dated 06.07.2016 in accordance with law and pass appropriate orders within a period of 8 weeks from the date of copy of the order of Hon'ble High Court Madras.

17. The Petitioner states that pursuant to the direction of the High Court Madras, dated 15.12.2016 the Commissioner, HR&CE Department, took up the matter relating to the removal of the Executive Officer from the Annadhana Chatram. After hearing all the parties the Commissioner, HR&CE Department has been pleased to pass an order dated 03.03.2017 and made in Proceedings SE.MU.NA.KA.No.32888/2016/L.5, in and thereby



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which the Commissioner, HR&CE Department, on an erroneous view had rejected the representation of the Petitioner holding that the appointment of Executive Officer under Section 45(1) of HR&CE Act is valid and consequently rejected the request of the Petitioner. It is against the same the Petitioner herein has filed the above Revision for the following among others:

GROUND

1. The Order of the Commissioner of HR&CE Department dated 03.03.2017, rejecting the request of the Petitioner to withdraw the appointment of Executive Officer, for Annadhanam Chatram is illegal and unjustified.
2. The Commissioner had unfortunately failed to see that the necessity to continue the Executive Officer did not exist, since nothing is stated against the present Trustees and consequently the question of retaining the Executive Officer to run the affairs of Trust is unwarranted and unsustainable.
3. The Commissioner should have seen that the appointment of Executive Officer was originally required due to the mismanagement and irregularities committed by the then Managing Trustee that was in the year 1987 and even after passing of 30 years and change of new Trustees, after duly conducting the election, absolutely it is unnecessary to retain the Executive Officer still to manage the affairs of the Annadhanam Chatram.
4. The Commissioner should have also seen that absolutely no irregularities or any mismanagement of Annadhanam Chatram were made against the present Trustees for the past 15 years, the question of still retaining the Executive Officer does not arise.
5. The Commissioner has miserably failed to see the various allegations and inaction on the part of the Executive Officer, resulting heavy financial loss which was brought to the light by the Trustees, but still the Commissioner, HR&CE did not remove the Executive Officer, from the Annadhanam Chatram.
6. It is to be noted that the order passed under Section 63(B) of the HR&CE Act and made in O.A.No.10/1965 a declaration has been granted by the then HR&CE Administration Department, Madurai that the Annadhanam Chatram has to be managed by the members of Chozhia Brahmins Annadhanam Trust at Kadayannallur. Whilless the continuation of



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The Executive Officer and the Management of Annadhamam Chatram is quite unwarranted and infringement of the right of the Petitioner to administer the Annadhamam Chatram and absolutely there is no necessity to continue the Executive Officer for the Annadhamam Chatram.

7. In any event the order passed by the Commissioner, HR&CE Department is incorrect and unsound.

It is therefore respectfully prayed that the Hon'ble Secretary, H.R. & C.E. Department, may be pleased to set aside the order dated 03.03.2017 passed by the Commissioner, HR&CE Department, Chennai, rejecting the request of the Petitioner to withdraw the 2nd Respondent Executive Officer, from managing the affairs of the Annadhama Chatram at Kadayannallur, and allow the Revision Petition and remove the Executive Officer and thus render justice.

Dated at Chennai on this the 27th day of July 2017.

COUNSEL FOR PETITIONER

PETITIONER

VERIFICATION

I, K.V.Shankara Subramanian, Managing Trustee, Annadhamam Chatram at Kadayannallur, the Petitioner herein, do hereby declare that the above facts are true and correct to the best of my knowledge and belief.

Verified at Chennai on this the 27th day of July 2017.

PETITIONER.



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6. Learned State counsel on behalf of respondents 1 and 2 and learned private counsel for third respondent (Executive Officer of aforementioned temple) submit that the first respondent will have to examine the aforementioned petition on its own merits and in accordance with law. There can be no two ways or no dispute about this submission.

7. Considering that the petition is of the year 2017 more particularly, July of 2017 (27.07.2017 to be precise), this Court deems it appropriate to accede to the prayer of writ petitioner to direct the first respondent to dispose of the aforementioned petition as expeditiously as the official business of the first respondent would permit and in any event on or before 29.04.2022. Though obvious, it is made clear that such disposal of the aforementioned petition dated 27.07.2017 shall be on its own merits and in accordance with law. It is also made clear that this Court has not expressed any view or opinion on the merits of the matter in this order.



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8. A copy of the proceedings/orders of first respondent disposing of the aforementioned petition of writ petitioner dated 27.07.2017 shall be served on writ petitioner under due acknowledgment within seven working days from the date of disposal. There shall be no order as to costs.

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Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

1. The Secretary to Government
Hindu Religious and Charitable Endowment Department
Fort St.George, Chennai-600 009.
2. The Commissioner
Hindu Religious and Charitable Endowment
Nungambakkam
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M.SUNDAR.J.,

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