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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13223 of 2022

1.K.Pachamuthu Poosali
2.K.Shanugam Poosali
3. K.Subramani Possali

...Petitioner

Vs

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Gandhi Nagar, Thiruvannamalai District.

2. The Inspector,
Hindu Religious and Charitable Endowment Board,
Kalasapakkam Taluk,
Thiruvannamalai District.

...Respondents

PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents herein to consider the representation dated 18.04.2022 made by the petitioners which was acknowledged by the respondents 1 and 2 on 20.04.2022 as expeditiously as possible.

For Petitioners :Mr.R.Nareshkumar
for Mr.N.Srinivasan

For Respondents :Mr.K.Karthikeyan
Government Advocate(HR &CE)
For R1 and R2

O R D E R

The relief sought for in the present writ petition is to direct the respondents to consider the representation dated 18.04.2022 made by the petitioners which was acknowledged by the respondents 1 and 2 on 20.04.2022 as expeditiously as possible.



2. No writ needs to be entertained, in the absence of establishing a right. It is a pre-condition that the person approaching the High Court under Article 226 of the Constitution of India, has to establish a right for entertaining a writ petition.

3. There is a growing trend of sending representations then and there and based on that, writ petitions are filed and routine orders of direction to consider the representations are issued. Such orders would not do any service to the cause of justice. Contrarily, it results in multiplicity of proceedings. Writ petitions after writ petitions are filed based on such directions. Otherwise, the litigants are working out in a corruptive manner to get a favourable order based on such direction to consider the representation. There is every possibility that the authorities are acting in collusion with the litigants in the event of passing such an order to consider the representation. Therefore, this Court is of the considered opinion that in every writ petition, the issues are to be decided on merits and the rights of the parties are to be crystallised, enabling the authorities to grant the relief in the manner known to law.

4. The litigants are expected to pursue the matter in accordance with law and by following the procedures. Simply sending a representation through registered post and filing a writ petition seeking a direction to consider the representation would undoubtedly result in inconvenience to the public administration. Considering the responsibility and work load of the Government officials, if hundreds or thousands of representations are sent in such a manner, it may not be possible for the Department officials to verify and pass order within a short span of eight or twelve weeks. Then immediately contempt applications are filed. The authorities are forced to pass order in a hurried manner, which ends in miscarriage of justice or the same would cause prejudice to the interest of the litigants. The litigants even in such circumstances may not get their grievances redressed. Contrarily, it becomes an empty formality wherein the facts are not properly adjudicated or considered. In some cases, the litigants are able to work out their remedy by abusing the orders of direction issued by the Courts to consider the representation in a corruptive manner. All these allegations cannot be brushed aside. The reality is to be considered in a practical manner. High Court cannot close its eyes in respect of such happenings and any such orders or consideration must be in consonance with the societal implications. Thus, exercise of restraint in issuing a direction to consider the representation is certainly required and at all circumstances, as pointed out by the Hon'ble Supreme



Court, issues are to be decided and appropriate remedy is to be granted to the parties, who all are approaching the High court under Article 226 of the Constitution of India.

5. Considering the situation, where a Commissioner of Hindu Religious and Charitable Endowment (HR and CE) Department is directed to consider such representations, which is not in a prescribed form, it will not be possible to dispose of large number of representations and further, the parties also may not get appropriate relief in accordance with law.

6. In the present case, the petitioners are seeking the relief to appoint them as Trustees of the Temple. For appointment of trustee, the claim of the petitioners are to be considered with reference to the documents and evidences and in accordance with the provisions of the Hindu Religious and Charitable Endowments Act, 1956 [hereinafter referred to as 'HR & CE' Act]. Such an elaborate adjudication cannot be undertaken by the High Court in a writ proceedings under Article 226 of the Constitution of India. The parties have to approach the competent authority under the Act for effective adjudication of issues.

7. The learned Government Advocate appearing on behalf of the official respondents made a submission that under Section 54 (1) of the Act, the petitioner has to approach the authority by filing an application in a prescribed format along with the documents.

8. That being the case, the petitioner is at liberty to approach the competent authority by following the procedures as contemplated under the Act and Rules for the redressal of his grievances.

9. With this liberty, the writ petition stands disposed of. No costs.

Sd/-
Vacation Officer

//True copy//

Sub Assistant Registrar

kak/nti

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Gandhi Nagar, Thiruvannamalai District.



2. The Inspector,
Hindu Religious and Charitable Endowment Board,
Kalasapakkam Taluk,
Thiruvannamalai District.

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+1 cc to The Government Pleader, Sr.No.31880

+1 cc to Mr. N. Srinivasan, Advocate, Sr.No.31705

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SSD (CO)

AJ(08/06/2022)