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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.No.3412 of 2019

A.Baskaran ... Appellant

Vs.

1.The Secretary,
Hindu Religious and Charitable
Endowments Department,
Secretariat, Chennai-600 009.

2.The Commissioner,
Hindu Religious and Charitable
Endowments Board,
Nungambakkam High Road,
Chennai-600 034. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, against the order passed by this Court in W.P.No.14054 of 2015 dated 06.02.2019.

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For Appellant : Mr.A.Ashivathaman

For Respondents : Mr.N.R.R.Arun Natarajan
SGP for HR & CE

J U D G M E N T

(Judgment of the Court was made by **T.RAJA , J.**)

This Writ Appeal has been filed against the order passed by this Court in W.P.No.14054 of 2015 dated 06.02.2019, wherein the learned Single Judge had dealt with many issues and finally came to the conclusion that the appellant herein had wrongly come to this Court without utilizing the appellate remedy available to him before the Government. Furthermore, the learned Single Judge had also observed that he was unable to countenance with the arguments advanced by the petitioner/appellant herein stating that the impugned order of removal was passed by the second respondent without considering the explanations given by the hereditary trustees in their proper perspective.

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2. Heard Mr.A.Ashivathaman, learned counsel for the appellant and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing on behalf of the respondents/HR & CE Department. As per the direction of this Court vide order dated 08.08.2022, Ms.G.Renuga Devi, Joint Commissioner, Chennai Region-II, Hindu Religious & Charitable Endowments Department (HR & CE) is present before this Court today.

3. The learned counsel appearing for the appellant submitted that the impugned order of removal passed against the appellant herein was not legally tenable and maintainable for the simple reason that the second respondent/Commissioner has passed the order, who has no jurisdiction under Sections 45 & 46 (ii) of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959, as the Government alone has got the power to pass such a final order. The learned counsel drew the attention of this Court to the notice issued by the Assistant Commissioner, Chennai in R.C.No.1523/2020/A1/dated 14.03.2020 and submitted that in the Arulmigu Kadumbadi Chinnamman Temple, Saidapet, Chennai, the

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assessable income for the relevant three consecutive years namely, from 2005-2006, 2006-2007 & 2007-2008 had exceeded Rs.10 lakhs and contended that the authorities have deliberately given a wrong revenue statement showing that the assessable income is less than Rs.10 lakhs, so as to corroborate that the impugned order passed by the Commissioner is authoritative.

4. Considering the submissions made by the learned counsel for the appellant and also after perusing the said notice issued by the second respondent in R.C.No.1523/2020/A1/dated 14.03.2020, this Court to clarify certain doubts, had directed the Joint Commissioner, HR & CE Department, Chennai to produce the relevant original official register maintained by them on 08.08.2022 and as per the direction of this Court, the Joint Commissioner, HR & CE Department, Chennai Region II had also produced the official register today.

5. A perusal of the official register produced by the Joint Commissioner, Chennai Region-II clearly tallies with the assessable income shown by the Assistant Commissioner, Chennai

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for the relevant three consecutive years which reads as under:

S.No.	*English Year July 01-June 30*	*Fasali Year*	*Assessable Income*
1	2005-2006	1415	1129878
2	2006-2007	1416	922970
3	2007-2008	1417	922970

On perusal of the same, it is seen that the assessable income for the years 2006-2007 & 2007-2008 have not exceeded Rs.10 lakhs. In view of the same, we do not find any merits in the Writ Appeal. Therefore, the order of removal of the appellant herein passed by the second respondent, cannot be found fault with. Hence, the Writ Appeal fails and the same is liable to be dismissed.

6. The learned counsel appearing for the appellant also strenuously argued that since the date of the charge memo issued by the second respondent to the appellant herein was on 05.06.2010, enquiry should be conducted only for the relevant year i.e., for the year 2010. In reply to this, the learned Special Government Pleader appearing for the second respondent/HR & CE Department stated that since the post of hereditary trustee was

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occupied by the appellant herein in the said temple was from 27.06.2005 to 30.06.2007, these three consecutive years alone shall be considered as crucial and relevant years for the purpose of assessable income of the temple. We have also seen that the assessable income pertaining to the years 2006-2007 & 2007-2008 shown in the official register produced before this Court was below Rs.10 lakhs. Secondly, the appellant who was levelled with the sole charge, on receipt of the charge memo dated 05.06.2010, had rendered his explanation and also took part in the enquiry and co-operated with the enquiry officer, who has completed the enquiry in a fair and reasonable manner and held that the charge levelled against the appellant was found to be proved. Based on the report of the enquiry officer and taking into account the revenue records of the three consecutive years namely, 2005-2006, 2006-2007 & 2007-2008, in our considered view, the Commissioner is only the Competent Authority to take action, for the reasons we have already stated supra. Apparently, it is seen from the official register that the revenue received by the Hundi of the temple is also less than Rs.10 lakhs.

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7. In the result, the Writ Appeal stands dismissed. There shall be no orders as to costs.

(T.R., J.) **(K.B., J.)**

22.08.2022

DP

Index:Yes/No
Order:Speaking/Non Speaking

To

1.The Secretary,
Hindu Religious and Charitable
Endowments Department,
Secretariat, Chennai-600 009.

2.The Commissioner,
Hindu Religious and Charitable
Endowments Board,
Nungambakkam High Road,
Chennai-600 034.

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T.RAJA, J.
and
K.KUMARESH BABU, J.

DP

JUDGMENT MADE IN

W.A.No.3412 of 2019

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