IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

WP NO. 16979 OF 2007
AND CONNECTED MISCELLANEOUS PETITIONS

Arulmigu Kamatchiamman,
Vinayagar Temple and Bajanai Madam
Rep. By its Trustees, Mr.H.G.Arumugam,
2/117-C, 24 Manai Telugu
Chettair Kalyana Mandapam,
Hrur 636 903, Dharmapuri District.

... Petitioner

vs.

1. The Commissioner,
   Department of Hindu Religious
   Charitable Endowments,
   Nungambakkam, Chennai.

2. The Deputy Commissioner,
   Department of Hindu Religious
   Charitable Endowments, Salem.

3. The Assistant Commissioner,
   Department of Hindu Religious &
   Charitable Endowments,
   Dharmapuri.

... Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in its proceedings letter Na.Ka.No.4043/2006/A3 dated 17.04.2007 quash the same and further directing the respondents not to interfere with the freedom to manage the affairs of functioning and administration of the Arulmigu Kamatchiamman, Vinayagar Temple and Bajanai Madam.

For Petitioner : Mr.S.Makesh

For Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

This Writ Petition has been filed for the issue of Writ of Mandamus to forbear the respondents not to interfere with the affairs of the functioning and administration of the Temple.

2. The case of the petitioner is that the Temple is a denominational temple which is run by the people belonging to the community and a scheme decree has already been passed in O.A. No.22 of 1990, by order dated 12.08.1991, and draft scheme was formulated. As per the draft scheme, the Trustees are to be appointed only from among the community people and the Temple has to be managed by them.

3. The grievance of the petitioner is that the Hindu Religious and Charitable Endowments Department is attempting to interfere with the administration of the Temple and the same is in violation of Article 26 of the Constitution of India and it is contrary to Section 107 of the HR & CE Act. It is under these circumstances, the present writ petition came to be filed before this Court.

4. A counter affidavit has been filed by the third respondent and it is stated that the Trustees of the temple did not maintain proper accounts for the income collected from the general public and the accounts were not submitted for the purpose of audit. This was brought to the notice of the Department and hence the third respondent directed the petitioner to produce the accounts maintained by them. It is further stated that even though a scheme was framed for the administration of the Temple, it does not mean that the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act will not apply and according to the third respondent, the management of the temple has to maintain proper accounts and produce the same for the purpose of audit under Section 87 of the Act. The third respondent has further contended that there is also an alternative remedy for the petitioner to file a Revision before the Commissioner of HR & CE Department, if the petitioner-Temple is really aggrieved by the notice issued by the third respondent and the petitioner cannot directly approach this Court by way of filing the Writ Petition. The third respondent has categorically denied the claim made by the petitioner, as it is a denominational temple.

5. Heard Mr.S.Makesh, learned counsel appearing for the petitioner and Mr.K.Karthikeyan, learned Government Advocate appearing for respondents 1 to 3.

6. In the considered view of this Court, the petitioner-Temple is receiving funds from the general public and hence they are bound to submit their accounts and subject the accounts for Audit. The notice issued by the third respondent merely called upon the petitioner to submit the accounts and participate in the enquiry. The petitioner ought to have participated in the enquiry and submitted the case on their side. If ultimately any action is taken by the third respondent and the petitioner is aggrieved by the same, the same can be put to challenge by the petitioner in the manner known to law. This Court is not inclined to interfere with the notice calling for the enquiry. Accordingly this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Commissioner,
Department of Hindu Religious
Charitable Endowments,
Nungambakkam, Chennai.

2. The Deputy Commissioner,
Department of Hindu Religious
Charitable Endowments, Salem.

3. The Assistant Commissioner,
Department of Hindu Religious &
Charitable Endowments,
Dharmapuri.

WP No. 16979 of 2007

RK(CO)
PM/21/06/2022