



W.P. No. 26867 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 26867 of 2022

and

W.M.P. No. 25955 of 2022

K.A.Subramanian

... Petitioner

-VS-

1. The Commissioner
Hindu Religious & Charitable Endowment
Nungambakkam, Chennai - 24.

2. The Administrative Officer
Arulmighu Thiruvetteswaran Thiru Kovil
Thiruvetteswara Pettai
Chennai - 600 005.

3. The Executive Officer
Arulmighu Thiruvetteswaran Thiru Kovil
Thiruvetteswara Pettai
Chennai - 600 005.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned final notice passed by the Third Respondent herein dated 13.09.2022 and quash the same and consequently, forbearing the First Respondent not to conduct any further enquiry pending appeal.



WEB COPY



W.P. No. 26867 of 2022

For Petitioner : Mr. K.Jaishankar
For Respondents : Mr. M.Rajendran
Additional Government Pleader

ORDER

Mr. K.Jaishankar, Learned Counsel for the Petitioner, Mr. M.Rajendran, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the proceedings dated 13.09.2022 issued by the Third Respondent, which is evidently a show-cause notice for which the Petitioner has been required to submit his explanation for the proposed eviction from the property belonging to the Temple of the Third Respondent.

3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in *Union of India -vs- Kunisetty Satyanarayana* [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant



W.P. No. 26867 of 2022

passages from the said decision which read as follows:-

WEB COPY

“13. *It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special Director -vs- Mohd. Ghulam Ghouse** (AIR 2004 SC 1467), **Ulagappa -vs- Divisional Commissioner, Mysore** [2001(10) SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987 SC 943) etc.*

14. *The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not*



W.P. No. 26867 of 2022

WEB COPY

established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Third Respondent, who is bound to deal with the



W.P. No. 26867 of 2022

same before coming to any ultimate conclusion, there is no necessity for the

Court to interfere at this pre-mature stage of the matter.

4. In such circumstances, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure and he has made an endorsement to that effect in the court record.

In view of the same, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.

11.10.2022

Maya

Index: Yes/No

Note: Issue order copy by 02.11.2022.

To

1. The Commissioner
Hindu Religious & Charitable Endowment
Nungambakkam, Chennai - 24.
2. The Administrative Officer
Arulmighu Thiruvetteeswaran Thiru Kovil
Thiruvetteeswara Pettai
Chennai - 600 005.



W.P. No. 26867 of 2022

3. The Executive Officer
Arulmighu Thiruvetteswaran Thiru Kovil
Thiruvetteeswara Pettai
Chennai - 600 005.



WEB COPY



W.P. No. 26867 of 2022

P.D. AUDIKESAVALU, J.

Maya

W.P. No. 26867 of 2022

11.10.2022