



W.P.No.32166 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32166 of 2018
and W.M.P.No.37423 of 2018

G.Ramesh

...Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Salem, Salem District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Salem, Salem District.

4.Arulmighu Enadhi Chenraya Perumal Thirukkoil,
Rep. by Thakkar/Executive Officer,
Semmandapatty Enathi Village,
Semmandapatty Post,
Kadayampatty Taluk, Salem District.



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5.C.Sivaraman

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the order of the 4th respondent dated 11/09/2017 and quash the same and direct the 4th respondent to reinstate the petitioner to appoint as Archakar in the Arulmighu Enadhi Chenraya Perumal Thirukkoil, Semmandapatty Eanathi Village, Semmandapatty Post, Kadayampatty Taluk, Salem District within stipulated time may be fixed by this Court.

For Petitioner : M/s.C.A.Sharmila for
M/s.U.Gowri Shankar

For Respondents : Mr.K.Karthikeyan
Government Advocate for R1 to R3

Mr.R.Karthikeyan for R4

No Appearance for R5

ORDER

The order dated 11.09.2017 terminating the petitioner from the post of Poosari is under challenge in the present writ petition.



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2.The petitioner states that he is the hereditary Archakar of Arulmighu Enadhi Chenraya Perumal Thirukkoil, Semmandapatty Eanathi Village, Semmandapatty Post, Kadayapatty Taluk, Salem District. The temple is falling under the control of the Executive Officer appointed by the Department of HR & CE. The competent authorities of the Department received complaint against the writ petitioner regarding certain illegalities and irregularities committed by him. There are allegations of misappropriation of the funds of the temple and other irregularities are also raised in the complaint. Accordingly, action was initiated against the writ petitioner and the learned counsel appearing on behalf of the Executive Officer made a submission that a criminal complaint was given against the petitioner and an FIR was registered.

3.The learned Government Advocate appearing on behalf of the Department made a submission that in respect of the serious allegations, an enquiry was conducted by the Assistant Commissioner, Salem and during the enquiry, the petitioner himself admitted the charges against him and



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accordingly, the impugned order terminating the services of the petitioner as Archakar was issued. In view of the fact that the petitioner admitted the charges before the Assistant Commissioner, there is no reason to entertain the writ petition.

4.The learned counsel for the petitioner disputed the said contention by stating that the petitioner had not admitted the charges. However, during the course of arguments, the learned Government Advocate brought to the notice of this Court that the petitioner had already filed a civil suit challenging the very same termination order dated 11.09.2017 in O.S.No.189 of 2017 on the file of the District Munsif, Omalur, Salem District and the said fact was suppressed by the petitioner in the present writ petition.

5.The learned counsel for the petitioner admitted the said mistake by stating that she came by way of change of vakalat and at the time of filing of the writ petition, the said facts were not stated in the affidavit filed in support of the present writ petition. The learned District Munsif Court, Omalur



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adjudicated the interlocutory application filed in I.A.No.1028 of 2017, elaborately on merits and passed an order on 06.10.2017. The said order was challenged before the Sub Court in CMA No.1 of 2017 and the said Civil Miscellaneous Appeal was also dismissed by the Subordinate Court without stating any of these facts in the affidavit. The petitioner has independently challenged the very same order of termination dated 11.09.2017 and on that ground also, the writ petition is liable to be set aside.

6.However, the learned counsel for the petitioner made a submission that thereafter, the suit filed by the petitioner was dismissed as not pressed based on the memo filed by him on 16.07.2018 and thereafter, he pursued the writ petition filed before this Court on 29.11.2018.

7.No doubt, the allegations against the petitioner are grave in nature. The Assistant Commissioner conducted an enquiry and before the Assistant Commissioner, the petitioner has admitted the charges. Accordingly, he was terminated. Certain disputed facts now raised in the writ petition cannot be



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adjudicated by this Court and such an adjudication must be done with reference to the documents and evidence in original. There is a statutory appeal contemplated under Section 56(2) of the HR & CE Act. Admittedly, the petitioner has not exhausted the statutory remedy contemplated under the Act.

8.The learned counsel appearing on behalf of the temple made a submission that the limitation period had already expired and even the present writ petition was filed after a lapse of one year from the date of passing of the impugned order and in any circumstances, the appeal period has lapsed and thus, the petitioner cannot seek any remedy before the appellate authority.

9.This Court is of the considered opinion that the petitioner was continuously adjudicating the issue both before the Civil Court and before the High Court. That being the case, the remedy of appeal under the statute need not to be denied to the petitioner which is to be done on merits. Under



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these circumstances, the petitioner is at liberty to approach the appellate authority under Section 56 (2) of the HR & CE Act before the competent authority and in the event of any such appeal if filed by the petitioner, the same may be adjudicated on merits and in accordance with law and the appellate authority shall decide the issues and pass appropriate orders by following the procedures as contemplated.

10. With these observations, this writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

02.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam,
Chennai – 600 034.



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S.M.SUBRAMANIAM, J.

SSR

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