



Cont.P(MD)No.730 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

Cont.P(MD)No.730 of 2022

in

W.P.(MD)No.3966 of 2017

Shir Nirathala Mudaiya Ayyanar Sonaiya Kovil
Manamadurai
Sivagangai District
Rep. by its Managing Trustee
K.Murugan

.. Petitioner

Vs

Ayyanar
Inspector
Office of the Inspector
Hindu Religious and Charitable Endowment Board
Sivagangai District

..Respondent

Prayer : This petition is filed under Section 11 of Contempt of Court Act, 1971 to punish the contemnor/respondent willfully disobeying the order passed by this Court in WP(MD) No.3966 of 2017 and WMP(MD) No.3151 of 2017 dated 08.03.2017.

For Petitioner : Mr.S.Natarajan

For Respondents : Mr.M.Lingadurai
Special Government Pleader



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ORDER

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The petitioner on receipt of the notice dated 24.08.2021, issued by the respondent, calling for the Income and Expenditure in respect of the Fazali 1431, which is in gross violation of the order passed in W.P.(MD)No.3966 of 2017, dated 09.03.2017, has filed the present petition.

2.The petitioner is the Managing Trustee of Shri Nirathala Mudaiya Ayyanar Sonaiya Kovil, which is a Denominational Temple. Since the HR & CE Department and its officials have been interfering with the administration and management of the temple, the temple was constrained to file a suit in O.S.No.49 of 1987 on the file of the Sub Court, Sivagangai, in which, the Commissioner of HR & CE, Chennai, Deputy Commissioner of HR & CE, Sivagangai and Assistant Commissioner of HR & CE, Ramnad at Madurai are parties. Though the suit was dismissed, in the appeal in A.S.No.49 of 1993 on the file of the District Court, Sivagangai, the District Judge of Pasumpon Muthuramalinga Thevar District at Sivagangai, has allowed the appeal and granted a decree dated 26.08.1994, declaring the temple as a



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denominational temple, which belongs to the Community of Kulalar of Manamadurai and granted permanent injunction against the HR & CE Department from in any way interfering with the community's management and administration of the temple. That decree was granted as per Article 26 of the Constitution of India. Thereafter, the HR & CE department attempted to interfere under the guise of auditing. Hence, the petitioner filed W.P.(MD)No.2795 of 2011, wherein, this Court directed the department not to call for records automatically as if it is a public temple. Against which, the HR & CE Department issued notice on 28.12.2015 and the petitioner has sent suitable reply on 04.01.2016. Thereafter, no communication was received from the HR & CE Department. Suddenly, on 28.02.2017 similar notice was issued seeking to produce all the documents. Thereafter, the petitioner had filed a W.P. (MD)No.3966 of 2017 and this Court by an order dated 08.03.2017 had granted stay in W.M.P.(MD)No.3151 of 2017 and the writ petition is pending for disposal and the stay is in force. In the meanwhile, to circumvent the order of this Court in toto, the present impugned notice dated 24.08.2021 has been issued by the respondent.



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3. The learned Special Government Pleader submitted that by issuance of impugned order dated 24.08.2021, in no way contempt has been committed. Stay was granted with regard to the impugned notice of the year 2017. The respondent/ Inspector, Hindu Religious and Charitable Endowment Board, Sivagangai District, who was appointed under the HR and CE Department is empowered to take action and to implement the Act. As per the Act, the Department has got right to call for the accounts even from the denominational temples. Though, as a matter of right the officials will not involve themselves in the day to day affairs of the temple administration and the overall administration, but to verify the audit and the contribution fees as to whether it has been properly paid and to verify whether the income of the temple is utilized for the right purpose. For that limited purpose, the account particulars are called and nothing more. He fairly submitted that the first part of the notice is a narration but it is in excess. The Inspector/respondent is newly recruited Inspector, who had not taken proper care before issuance of the notice. This part of the notice can be struck down. The sum and substance of the notice is calling for the budgetary Fasali 1431 and nothing more. It is a procedure followed calling each temple particulars



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so that budget can be approved by the concerned authorities to ensure that the temple money/public money is properly utilized and also to assess and fix the contribution and audit fees, which cannot be termed as commission of any contempt.

4. It is seen that though the temple is a denominational temple, but it is a public temple worshipped by all the community people who also contribute to the temple. Calling for the budgetary proposal is one of the function of the HR and CE Department for fixing audit and contribution fess. Further the notice dated 24.04.2022 is for Fazali 143. Earlier stay has been granted with regard to Fasali 1419-2, 1425. Hence, this notice does not cover the orders of this Court in WP(MD) 23151 of 2017.

5. In view of the same, there is no question of any contempt.
Hence the contempt petition stands closed.

06.07.2022

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M.NIRMAL KUMAR, J.

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