



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition (MD) Nos.4638 & 4674 of 2022

and

W.M.P. (MD) Nos.3909 & 3910 of 2022 in W.P. (MD) No.4674 of 2022

W.P. (MD) No.4638 of 2022:-

A.Ganesan

.. Petitioner

Versus

The Executive Officer,
Arulmigu Nambi Sastha Thirukovil,
Kalvoy, Thiruvaikuntam Taluk,
Thoothukudi District.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondent to conduct Panguni Uthiram festival falls on 18.03.2022 at Sri Nambi Sastha Thirukovil, Kalvoy, Thiruvaikuntam Taluk, Thoothukudi District, by allowing all the community people in and around the Village of Kalvoy to participate in the Panguni Uthiram festival and pass order on the representation submitted on behalf of the people of Kalvoy Village, dated 11.03.2022, within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.M.Muthugeethayan

W.P. (MD) No.4674 of 2022:-

R.Dhanushkodi

.. Petitioner

Versus

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Thousand Lights West,
Nungambakkam,
Chennai.



2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thoothukudi,
Thoothukudi District.

3.The Inspector,
Hindu Religious and Charitable Endowments Department,
Thiruvaikundam,
Thoothukudi District.

4.The Tahsildar,
Srivankundam Taluk,
Thoothukudi District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent pertaining to its order bearing Se.Mu.Na.Ka.No.1352/2021/Aa1, dated 09.03.2022, quash the same and consequently, direct the respondents to grant permission for conducting Panguni Uthiram festival of 'Arulmigu Nambi Sastha Kovil', Kalvoy Village, Srivaikundam Taluk, Thoothukudi District, on 18.03.2022, by the Yadhavar community people as it has been conducted from time immemorial.

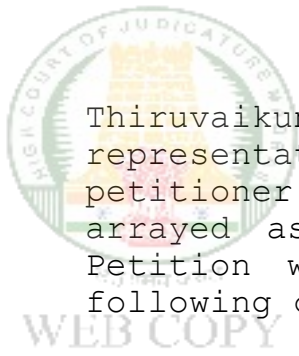
For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.M.Subbaraj
Special Government Pleader

COMMON ORDER

By this common order, both these Writ Petitions are being disposed of at the stage of admission itself after hearing the learned counsel for the respective petitioners, learned Special Government Pleader for the respondents in W.P.(MD)No.4674 of 2022 and the respondent in W.P.(MD)No.4638 of 2022], who is the Fit Person, appointed pursuant to the order, dated 21.02.2022 of this Court in W.P.(MD)No.3228 of 2022 and the subsequent proceedings of the Assistant Commissioner, dated 09.03.2022, appointing the Fit person and pursuant to a report of the Inspector of H.R. & C.E. Department in response to the Letter dated 08.03.2022 of the Assistant Commissioner of H.R. & C.E. Department.

2.Earlier, the writ petitioner in W.P.(MD)No.4638 of 2022, namely, A.Ganesan had approached this Court by way of Writ Petition in W.P.(MD)No.3228 of 2022. The said Writ Petition was filed for a Writ of Mandamus to direct the Commissioner, H.R. & C.E. Department to appoint an Executive Officer/Trustee to administer and maintain Sri Nambi Sastha Thirukovil, pursuant to the proceedings dated 02.08.2021 of the Inspector of H.R. & C.E. Department,



Thiruvaikundam, bearing Na.Ka.No.76/2021, based on the petitioner's representation dated 01.11.2021. In the said Writ Petition, the petitioner in W.P.(MD)No.4674 of 2022 namely, R.Dhanushkodi was arrayed as 7th respondent. After hearing both sides, the Writ Petition was disposed of vide order dated 21.02.2022, with the following observation:-

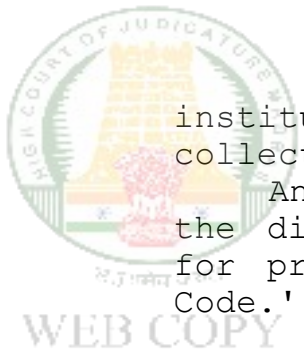
''3. The learned counsel for the official respondents submits that appropriate enquiry will be held and a report would be filed before the third respondent and appropriate orders will be passed by the official respondents herein thereafter.

4. Recording the above submission, the writ petition is disposed of by directing the official respondents to complete the process within a period of two weeks from the date of receipt of copy of this order. Needless to state before passing such order, the petitioner, seventh respondent and others who are likely to be affected by the order to be passed shall be heard. No costs. Consequently, the connected Miscellaneous Petitions are closed.''

3.The fact also indicates that there are communal tension between the respective petitioners, representing two communities. The petitioner in W.P.(MD)No.4674 of 2022 [R.Dhanushkodi] claims that the Temple is a private Temple and is administered and managed by the members of his community. Whereas, the petitioner in W.P.(MD)No.4638 of 2022 [A.Ganesan] states that the Temple belongs to both the communities and that both the communities are entitled to collect Tax. It appears that the conduct of the festival by either of the group can result in a law and order situation, as both the feuding communities are attempting to dominate each other and can disturb the communal harmony in the Village. The members of both the communities are collecting tax, which is contrary to Rule 5-A of the Collection of Income and the Incurring of Expenditure Rules, which reads as under:-

''5A. Prevention of improper collection.-

No person, who is not, in any way, connected with the affairs of the religious institution, shall collect any money, subscription, donation or other property for religious purpose connected with the religious institution. If it is brought to the notice of the competent authority having jurisdiction and administrative control over the religious institution, that a person or group of persons, indulged in making such collection, such authority shall direct such person or group of persons, to stop making such collection forthwith, and require such person or group of persons to deposit such collection with the religious



institution concerned and to render an account of the collection made by such person or group of persons.

Any person or group of persons, who fail to comply with the direction of such competent authority will be liable for prosecution under the provisions of the Indian Penal Code.''

4.The petitioner in W.P.(MD)No.4674 of 2022 states that the aforesaid Temple is a private Temple belonging to a particular community to which he belongs.

5.Whether the subject Temple is a private Temple or a public Temple has to be decided in an appropriate proceedings.

6.Considering the fact that the Fit Person has been appointed and the keys are with the Fit Person and since the Temple festival is scheduled to be conducted on 18.03.2022, I am inclined to dispose of these Writ Petitions, by directing the Fit Person to ensure that the festival is conducted in an orderly manner. If required, necessary protection from the local Police may be sought for.

7.The persons belonging to the respective communities, who are collecting Tax, are directed to hand over all the collections made for the purpose of the festival to the Fit Person, who shall maintain proper account therefor. The impugned order which has been challenged, appointing the Fit Person shall be reviewed by the Assistant Commissioner once again after hearing the respective parties after the Temple festival is over, within a period of six weeks thereafter.

8.These Writ Petitions are disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed. It is made clear that the continuance of the Fit Person will be subject to further orders to be passed by the second respondent - Assistant Commissioner in terms of the order passed on an earlier occasion.

Sd/-

Assistant Registrar (Records)

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/ /2022

Sub Assistant Registrar

To

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Thousand Lights West,
Nungambakkam,

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thoothukudi,
Thoothukudi District.

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3.The Inspector,
Hindu Religious and Charitable Endowments Department,
Thiruvaikundam,
Thoothukudi District.

4.The Tahsildar,
Srivankundam Taluk,
Thoothukudi District.

+1 CC to M/s.M.MUTHU GEETHAYAN, Advocate (SR-12609[F] dated 16/03/2022)

+1 CC to M/s.SPL GP (SR-12727[F] dated 17/03/2022)

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-12617[F] dated 17/03/2022)

Common order in
WP (MD) Nos.4638 & 4674 of 2022
16.03.2022

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MS/17.03.2022/5P.8C