



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) .No.5487 of 2022

and

W.M.P. (MD) .Nos.4443 & 4444 of 2022

R.Ganapathi Subramania Pattar

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai-600 034.

2.Arulmigu Subramaniaswamy Thirukkivil,
Represented by its Thakkar,
Thiruchendur,
Thoothukudi District.

3.The Executive Officer/Joint Commissioner,
Arulmigu Subramaniaswamy Thirukkivil,
Thiruchendur,
Thoothukudi District.

4.Harihara Subramaniya Pattar,

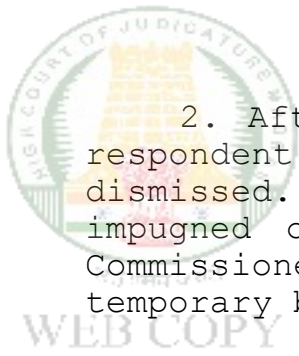
...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the third respondent in Se.Mu.Na.Ka.No.1221/2001/Vu2, dated 27.11.2021.

For Petitioner	:	Mr.T.Mohan for M/s.Ashok Kumar.N.C
For R-1	:	Mr.P.Subbaraj, Special Government Pleader.
For R-3	:	Mr.M.Muthugeethayan

ORDER

The writ petition has been filed for a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the third respondent in Se.Mu.Na.Ka.No.1221/2001/Vu2, dated 27.11.2021.



2. After heard the learned Counsel for the petitioner and the respondent I am of the view that this Writ Petition is liable to be dismissed. In this writ petition, the petitioner has challenged the impugned order, dated 27.11.2021 of the third respondent, Joint Commissioner appointing the fourth respondent as an Archaka on temporary basis till final appointment is made.

3. It is the case of the petitioner that right from 2000, the petitioner has been officiating in an additional capacity in place of the fourth respondent who was absent and in his place one Shanmuga Pattar was appointed who also went on long leave. It is further submitted that the appointment by the third respondent is contrary to the provisions of the Hindu Religious and Charitable Endowments Act.

4. Opposing the prayer in this writ petition, the learned Counsel for the third respondent submits that the impugned order, appointing the fourth respondent is legal and cannot be interfered. It is submitted that the petitioner is already a permanent employee and was given additional charge in 2000. It is further submitted that at the time when the petitioner was appointed by an order, dated 13.12.2000, it was categorically stated that his appointment to render services in the Shanmugar Sannathi was temporary in nature.

5. The learned Special Government Pleader for the respondent submitted further that the said order was later recalled by the Joint Commissioner, by an order, dated 14.06.2010 which was subject matter of a challenge by the petitioner in W.P(MD)No.8459 of 2010. Though an interim order was granted by this Court on 06.07.2010, the writ petition was eventually dismissed by this Court on 09.09.2014.

6. The learned Special Government Pleader for the respondent submits that the said order also was not challenged by the petitioner, in the writ appeal. Thereafter, a decision was taken to appoint the fourth respondent on temporary basis.

7. I have considered the arguments from the side of the learned Counsel for the petitioner and the respondent. I have perused the impugned order passed by the third respondent.

8. The appointment of the fourth respondent by the third respondent cannot be questioned, on the ground of lack of jurisdiction as petitioner's appointment also was by the third respondent on temporary basis on 13.12.2000. The petitioner had unsuccessfully challenge the revocation of that order, by an order, dated 14.06.2010 before this Court in W.P(MD)No.8459 of 2010. The said writ petition was dismissed by this Court on 09.09.2014 with a following observation:



"4. I have considered the above submissions. In my considered opinion, the petitioner has got no case before this Court to prosecute. There is no controversy that the petitioner is a permanent employee of the 1st respondent temple, performing poojas in Arulmighu Kulasai Kovil, a subtemple of Arulmighu Subramaniaswamy Temple. He was only given additional charge to perform poojas in a different temple. That permission has now been withdrawn by the impugned order, in which, I do not find any illegality to interfere with the same. The petitioner cannot have any vested right. Assuming that he has not any such right, it is for him to work-out his remedies before the appropriate civil court. No relief could be granted in this writ petition. The writ petition fails and accordingly it is dismissed. No costs. Connected miscellaneous petition is also dismissed."

9. The impugned order now seeks to appoint the fourth respondent on temporary basis pursuant to an intimation, dated 28.05.2015 and the application of the fourth respondent. It merely states that fourth respondent is being appointed to officiate as a Poosari in the Shanmugar Sannathi on a temporary basis. It is open to the petitioner also to send an application to the respondent to allow the petitioner to continue as the temporary poosari. The petitioner also has liberty to file a proper proceedings under Section 55(4) of the Hindu Religious and Charitable Endowments Act against the impugned order. There is further no merits in this writ petition.

10. Therefore, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

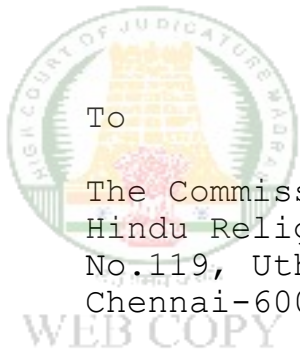
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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai-600 034.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-15010[F] dated
29/03/2022)

+1 CC to M/s.SPL GP (SR-15060[F] dated 29/03/2022)

+1 CC to M/s.N.C.ASHOKKUMAR, Advocate (SR-15109[F] dated
29/03/2022)

W.P. (MD) .No.5487 of 2022
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