



W.P(MD). No. 6890 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM

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

W.P(MD). No. 6890 of 2019

and

W.M.P(MD) Nos. 5495 and 5496 of 2019

1. M.Sonaimuthu
2. M.Muthunayagam

... Petitioners

-VS-

1. The Commissioner,
Hindu Religious and Charitable
Endowments (Admn.) Department,
Uthamar Gandhi Salai, Nungambakkam,
Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious & Charitable Endowments
(Admn.) Department,
Ellis Nagar, Madurai.
3. The Assistant Commissioner,
Hindu Religious & Charitable Endowments
(Admn.) Department, Madurai.
4. The Executive Officer,
Arulmigu Edaganathaswamy Temple,
Thiruvedagam, Vadipatti Taluk,
Madurai District.

5. P.Anbu Muthuchamy

... Respondents



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Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the Second Respondent in Se.Mu.Na.ka.No.9086/2018 Aa1, dated 09.02.2019, quash the same as illegal.

For Petitioners : Mr. V.R.Shanmuganathan

For Respondents : Mr. P.Subbaraj

Special Government Pleader
for R1 to R3

Dr.C.Guhaseelarupan for R4

Mr. A.Balamurugan for R5

ORDER

Heard Mr. V.R.Shanmuganathan, Learned Counsel for the Petitioner, Mr. P.Subbaraj, Learned Special Government Pleader for the First and Second Respondents, Dr. C.Guhaseelarupan, Learned Counsel for the Fourth Respondent and Mr. A.Balamurugan, Learned Counsel for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the proceedings in Se.Mu.Na.ka. No. 9086 / 2018 Aa1 dated 09.02.2019 of the Second Respondent in which the Fourth Respondent, viz., the Executive Officer, Arulmigu Edaganathaswamy Temple,



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Thiruvudagam, Vadipatti Taluk, Madurai District, has been appointed as Fit Person of Eliagurusamy Mutt (hereinafter referred to as 'Institution' for short) at Thenoor Village, Vadipatti Madurai North Taluk, Madurai District.

3. It is the contention of the Petitioner that since the then Commissioner of Hindu Religious and Charitable Endowments (Admin.) Department by order dated 15.01.1954 in Appeal No.64 of 1953 has held that institution to be not a 'religious institution' as defined under the Madras Hindu Religious and Charitable Endowments Act, 1951, by virtue of Section 118(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'HR&CE Act' for short), the impugned order passed is without jurisdiction.

4. In response, it is explained by the Learned Special Government Pleader appearing for the First to Third Respondents that the definition of 'religious institution' in the Madras Hindu Religious and Charitable Endowments Act, 1959, which was in force at the time of passing of the order dated 15.01.1954 in Appeal No. 64 of 1953 by the then Commissioner of Hindu Religious and Charitable Endowments (Admin.) Department, did not include 'samadhi', but an amendment has been made to the phrase 'religious institution' in Section 6(18)



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of the HR&CE Act with effect from 27.06.2012, which expressly covers 'samadhi' and as its consequence, the earlier order passed by the then Commissioner of Hindu Religious and Charitable Endowments (Admin.) Department which is inconsistent with the provisions of the HR&CE Act, cannot be relied by the Petitioner for exemption from the applicability of that Act from the date on which the said amendment came into force.

4. The well-founded submission made by the First to Third Respondent deserves acceptance and it is not possible to accept the claim of the Petitioner to the contrary in this case. In that view of the matter, there does not appear to be any infirmity to interfere with the impugned order in the exercise of discretionary powers of judicial review of decision-making process under Article 226 of the Constitution.

In fine, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

Note: Issue order copy by 30.01.2023.

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P.D. AUDIKESAVALU, J.

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