



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) No.8014 of 2019

and

W.M.P. (MD) No.6320 of 2019

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'Pazham Nee' Annadhana Arakkattalai,
No.150, Kottampatti Main Road,
Natham,
Dindigul District,
Through its Trustee and Secretary,
G.Sugiraman

.. Petitioner

Versus

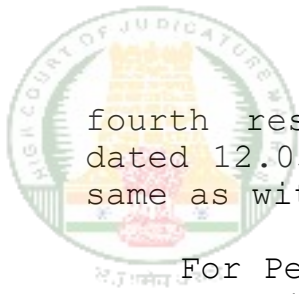
- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
B-1, Ellis Nagar,
Madurai - 16.
- 2.The District Collector,
Collectorate,
Dindigul District.
- 3.The Joint Commissioner/Executive Officer,
Arulmigu Thandayuthapaniswamy Thirukoil,
Palani,
Dindigul District - 624 601.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.
- 5.The Inspector,
Hindu Religious and Charitable Endowments Department,
Melur,
At Arulmighu Kailasanathar Koil, Melur,
Madurai District.

6.P.N.Murugesan

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, calling for the records of the impugned order in Na.Ka.No.1787/2018-1/C1, dated 30.11.2018, issued by the third respondent and the consequential impugned order in Na.Ka.No.5894/2018-2/A3, dated 03.12.2018, on the file of the

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fourth respondent and consequential notice in Na.Ka.No.250/2018, dated 12.03.2019, on the file of the fifth respondent and quash the same as without jurisdiction, illegal and arbitrary.

For Petitioner : Mr.H.Lakshmi Shankar
For R1 to R5 : Mr.P.Subbaraj
Special Government Pleader
For R6 : Mr.C.Mayil Vahana Rajendran

ORDER

The petitioner has challenged the impugned communication dated 30.11.2018 of the third respondent - Joint Commissioner, and the impugned notice dated 03.12.2018 of the fourth respondent - Assistant Commissioner and the impugned notice, dated 12.03.2019, of the fifth respondent - Inspector. These proceedings have emanated pursuant to the complaints of the sixth respondent, a private party, which are said to have been given on 06.10.2018, 09.11.2018 and 10.11.2018.

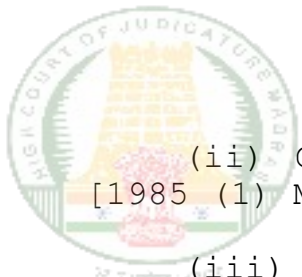
2.The learned counsel for the petitioner submits that the H.R. & C.E. Department has no jurisdiction to summon or call upon the petitioner to come for an enquiry, as the petitioner is a charitable Trust and not a religious institution. It is submitted that there is only an endowment for certain activities and that many of the activities are secular in nature without any discrimination in caste or creed. One of the objects of the Trust is to give Annadhanam during Thai Poosam and water during summer to everybody. It is submitted that it was started by 11 persons belonging to a particular community and at the time of starting of the Trust, there was no property owned by the petitioner Trust. It is further submitted that subsequently, about 31 Ares of land [approximately 77 cents of land] has been purchased by the petitioner Trust. It is further submitted that as per the Trust Deed, any movable or immovable asset will be purchased only in the name of the Trust and the Trust will have the authority to administer the property.

3.It is submitted that the sixth respondent is no way connected with the petitioner Trust and has initiated proceedings on account of personal enmity with the founding Trustees of the petitioner Trust. The learned counsel for the petitioner submits that the petitioner Trust is outside the purview of the H.R. & C.E. Department and therefore, the impugned communications of the fifth respondent to enquire and give a report are liable to be quashed.

4.In this connection, the learned counsel for the petitioner relied on the following judgments:-

(i) Shanmugha Perayyar vs. State of Madras, Rep. by the Secretary, Home Department, Govt. of Madras [AIR 1965 Madras 416]

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(ii) Gomathi Ammal (died) and others vs. Madasamy and others [1985 (1) MLJ 360]

(iii) R.Murali and others vs. Kanyaka P.Devasthanam and Charities and others [2005 (6) SCC 166]

(iv) S.Angamuthu Pillai and others vs. S.Govindarajoo Mudaliar (since deceased) and others [2008 (2) MLJ 980]

(v) Carona Ltd. vs. M/s.Parvathy Swaminathan and sons [2007 (8) SCC 559]

5.Opposing the prayer, the learned Special Government Pleader for the official respondents submits that there is no final determination as per the impugned communication and the Trustees of the petitioner have been merely asked to come and give a report. It is submitted that the writ petition is premature and therefore, liable to be dismissed.

6.The learned counsel for the private respondent reiterates the above submissions and submits that there is a large scale mismanagement and therefore, the official respondents are duty bound to interfere and take appropriate steps under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the H.R. & C.E. Act'].

7.I have considered the arguments advanced by the learned counsel appearing for the parties.

8.*Prima facie*, on a reading of the Trust Deed, indicates that the petitioner may not be amenable to the jurisdiction of the authorities under the provisions of the H.R. & C.E. Act. If the sixth respondent wants the petitioner Trust to be brought within the purview of the H.R. & C.E. Act, the sixth respondent is not without remedy. The sixth respondent can file appropriate application before the Joint Commissioner or Deputy Commissioner under Section 63 of the H.R. & C.E. Act and thereafter, appropriate steps can be taken for taking over the petitioner Trust.

9.In the above said proceedings, the issue as to whether the petitioner is a religious endowment or endowment within the meaning of Section 6(17) of the H.R. & C.E. Act, can also be decided. Under these circumstances, I am inclined to allow this Writ Petition while preserving the liberty to the sixth respondent or any person, who is competent to approach the Joint Commissioner or Deputy Commissioner under Section 63 of the H.R. & C.E. Act.

10.Accordingly, the impugned communication dated 30.11.2018 of the third respondent and the impugned notice dated 03.12.2018 of the



fourth respondent and the impugned notice, dated 12.03.2019, of the fifth respondent are set aside and this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
B-1, Ellis Nagar,
Madurai - 16.

2.The District Collector,
Collectorate,
Dindigul District.

3.The Joint Commissioner/Executive Officer,
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Madurai District.

+1 CC to M/s.H. LAKSHMI SHANKAR, Advocate (SR-16814[F] dated 06/04/2022)

+1 CC to M/s.SPL.GP (SR-17035[F] dated 06/04/2022)

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SMV(CO)
KB(28.04.2022) 4P 8C