



W.P(MD)No.18616 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.11.2022

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.18616 of 2022

and

W.M.P.(MD)No.13543 of 2022

S.Shaji

... Petitioner

**Vs.**

1.State of Tamil Nadu,  
Through its Principal Secretary to Government,  
Tourism, Culture and Religious Endowments Department,  
Fort.St.George,  
Chennai-600 009.

2.The Commissioner of Hindu Religious and Charitable  
Endowments Department,  
Nungambakkm High Road,  
Chennai.

3.The Deputy Commissioner / Executive Officer,  
Arulmigu Meenakshi Sundareswarar Temple,  
Madurai.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records pertaining to the impugned order in Se.Mu.Na.Ka. No.4911-1/2022/Aa1 dated 11.08.2022 on the file of the respondent No.3 and quash the same as illegal.



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For Petitioner : Mr.T.Lajapathi Roy  
For R1 & R2 : Mr.Veerakathiravan  
Additional Advocate General  
assisted by Mr.J.Ashok,  
Additional Government Pleader  
For R3 : Mr.K.Govindarajan

### ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for R1 & R2 and the learned counsel appearing for the third respondent temple.

2. The writ petitioner was employed as Record Clerk in the third respondent temple in the year 1997. He was promoted as Junior Assistant and then as Assistant. He was assigned work at Thriumarainathaswamy Temple at Thiruvathavoor. By the impugned order dated 11.08.2022, the petitioner had been transferred to Arulmigu Ramanathaswamy Thirukovil, Rameshwaram. The third respondent had also issued the relieving order. Since the relieving order alone was served on the petitioner, he was constrained to challenge the same as he was not furnished with the copy of the order issued by the



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Commissioner of HR & CE Department, Chennai. This Court while

entertaining the writ petition had granted an order of interim stay on

16.08.2022. The order granting interim stay reads as follows:-

“Under Rule 17 of the Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020, the second respondent while passing the impugned order of transfer, requires to get mutual consent of the Executive Authority of the Temples between which the employee is transferred from service.

2. The impugned order does not reflect that such a consent was obtained from the Executive Authority of the Religious Institutions which is a mandatory requirement under Rule 17 of the Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020. In this background, I am of the prima facie view that the order of transfer cannot be sustained. However, this aspect requires further deliberations. In view of the prima facie, there shall be an order of interim stay.”

Seeking to vacate the same, the temple had filed W.M.P.(MD)No.15108 of 2022.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order. According to the learned counsel, the petitioner is an office bearer of the employees association and in that capacity, he filed W.P.(MD)No.2288 of 2022 questioning the amendment made to Tamil Nadu Hindu Religious Institutions Employees



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(Conditions of Services) Rules, 2020 and the consequential guidelines issued

by the Commissioner of HR & CE Department. The writ petition was dismissed on 28.04.2022 and he moved the Hon'ble Apex Court by filing SLP. The learned counsel appearing for the petitioner would allege that the impugned transfer order was a counter blast to the petition filed by the petitioner before the Apex Court. According to him, the impugned proceedings are vitiated by malice in law. He called upon this Court to allow the writ petition as prayed for.

4. Per contra, the learned Additional Advocate General as well as the learned counsel for the Temple submitted that the impugned orders do not warrant any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. Interim order was granted primarily for the reason that consent of the executive authority of Ramanathaswamy Temple was not obtained. Rule 17 of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Services) Rules, 2020 reads as follows:--



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**“17. Transfers and Postings:-** (1) The employees of religious institutions may be transferred to the entry level post from one religious institution to another religious institution having Executive Officer of the same grade based on the mutual consent of the Executive Authorities of the religious institutions by considering the objections of employees of the said religious institutions and subject to approval by the Commissioner.

Provided that the scale of pay and designation of the post are the same in both the religious institutions.

(2) An employee transferred from one religious institution to another religious institution is entitled for joining time as admissible to Government Servants.

(3) No employee shall be considered for transfer during the period of probation if,

- (i) disciplinary action is pending or contemplated against him.
- (ii) criminal case is pending or contemplated against him.
- (iii) vigilance case is pending or contemplated against him.
- (iv) he is undergoing any punishment.

4. Notwithstanding anything contained in this rule, the Commissioner may, in the interest of administration of religious institutions, transfer employees of any religious institution to any other religious institution having Executive Officer of the same grade”

7. The impugned order dated 11.08.2022 has been passed by the Commissioner of HR & CE Department by invoking Sub Rule 4 of Rule 17. The said Sub Rule does not contemplate obtaining the consent of the executive authority of the temple concerned. The only restraint on power to transfer is that the employee can be transferred to any other religious institution having executive officer of the same grade. The writ petitioner was an employee of



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Arulmigu Meenakshi Sundareswarar Temple which is having an executive officer in the rank of Deputy Commissioner. Arulmigu Ramanathaswamy Temple is also having an Executive Officer of the same rank ie., the Deputy Commissioner. There is no infraction of the mandate set out in Rule 17(4). The primary ground on which the interim order was granted does not really hold good. The respondents have made available the relevant records which indicate as to why the transfer order was made on administrative grounds. It can be seen therefrom that when an inspection was conducted on 02.08.2022 and 03.08.2022, the writ petitioner was not present. The attendance register has been produced before me. I do not find the initial of the writ petitioner on the said two dates. In fact, a memo has also been issued to the writ petitioner calling upon him to explain in this regard. In my view, this is certainly an appropriate ground for effecting transfer. This can legitimately be considered as administrative ground. Of-course, I will have to deal with the contention as to whether the impugned order is vitiated by malice. The petitioner has not impleaded any authority in person. Therefore, it is not possible for this Court to consider the said contention. Of-course, the learned counsel appearing for the petitioner would submit that the impugned order is vitiated by malice in law. I am not able to accept the said submission. The contention advanced by the petitioner's counsel essentially amounts to allegation of malafide. The



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respondents have clarified that as a result of the impugned order of transfer, the petitioner's pay, seniority and other service conditions will not be affected in any manner. His original seniority as obtaining in Arulmigu Meenakshi Sundareswarar Temple will continue to be maintained. I do not want to interfere with the order impugned in the writ petition. I however direct the third respondent to drop further proceedings initiated pursuant to the memo dated 05.08.2022 calling upon the petitioner to offer his explanation as regards his absence on the said two dates.

8. The learned counsel appearing for the petitioner, on instructions, states that the writ petitioner will join in the trasnsferred place on 12.11.2022 or before. Since the petitioner enjoyed the benefit of interim stay till today, the third respondent temple is directed to pay salary and other allowances to the writ petitioner. The period till 07.11.2022 joining date will be treated as on duty for all purposes.

9. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**02.11.2022**

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**G.R.SWAMINATHAN, J.**

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To

- 1.The Principal Secretary to Government,  
Tourism, Culture and Religious Endowments Department,  
Fort.St.George,  
Chennai-600 009.
- 2.The Commissioner of Hindu Religious and Charitable  
Endowments Department,  
Nungambakkm High Road,  
Chennai.

**NOTE:Issue Order Copy on 11.11.2022**

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