



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.01.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.12189 of 2018

WEB COPY

P.Murugesan

...Petitioner

/Vs./

- 1.The Secretary to Government of Tamil Nadu,
Tourism, Culture and Religious Endowment Department,
St.George Fort,
Chennai.
 - 2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai - 34.
 - 3.The Executive Officer,
Arulmighu Nellaiyappar Arultharum Kandhimathy Amman Temple,
Tirunelveli Town.
- ...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 02.01.2018 and pass an order to upgrade the Arulmighu Nellaiyappar Arultharum Kandhimathy Amman Temple, Tirunelveli Town from Executive Officer Grade - I Level to Assistant Commissioner Grade and give all the monetary benefits to employees of the 3rd respondent temple.

For Petitioner	: Mr.S.Karthikeya Venkatachalapathy for Mr.S.Suriyanarayanan
For R1 & R2	: Mr.V.Om Prakash Government Advocate
For R3	: Mr.S.Madhavan

ORDER

The petitioner is employed as Maniam in the Arulmighu Nellaiyappar Arultharum Kandhimathy Amman Temple (hereinafter referred to as 'temple'). He seeks a mandamus directing the Secretary to Government, Tourism, Culture and Religious Endowment Department/R1 and the Commissioner, Hindu Religious and Charitable Endowment Department /R2 (HR&CE Department/R2) to consider his representation dated 02.01.2018 and pass orders upgrading the temple from Executive Officer Grade I level to Assistant Commissioner Grade with all consequential monetary benefits to its employees. The Executive Officer (EO) of the temple has been arrayed as R3.



2.The petitioner draws attention to a communication dated 26.12.2006 sent by R2 proposing that eight temples including the temple in question have all necessary attributes and eligible criteria to be upgraded to Grade I temple. Despite such a proposal made as early as in 2006, necessary orders are yet to be passed and hence the present writ petition.

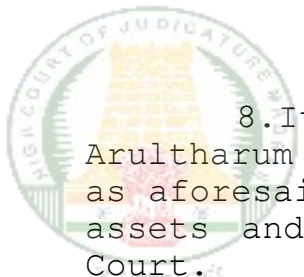
3.That apart, petitioner has relied upon three Government Orders: G.O.No.401, Tamil Development, Culture and Endowments Department dated 04.09.1998, G.O.No.257, Tamil Development Charitable Endowment and Information (AN-4-1) Department, dated 30.06.2010 and G.O.No.91, Tamil Nadu Tourism and Endowments Department, dated 28.06.2019 relating to fixation of pay under the fifth, sixth and seventh pay commissions. This is in support of the prayer, and sets out the basis upon which the petitioner hopes to be benefitted, if the classification of the temple is stepped up.

4.In counter, R2 would submit that the upgradation of a temple is a matter of policy and the power for such upgradation vests solely with the State. Moreover, the request of the petitioner is premised solely upon the income of revenue earned by the temple, which is, as per communication dated 26.12.2006, a sum of Rs.58.77 lakhs.

5.However, classification of the temples is not decided solely upon the income earned, but various other parameters, such as its assets and the purposes for which the assets have been deployed, the festivals connected to the particular temple, the footfall of devotees in the temple, its location, history and heritage among others. Thus, no employee could compel the officials of the HR&CE Department to upgrade a temple and a mandamus would not lie.

6.At the time of hearing, a copy of the minutes of the meeting conducted by officials of the department in relation to upgradation of temples was sought. This was the basis upon which communication dated 26.12.2006 was issued and is referred to at reference 6 of the communication. This has not been furnished and the thought process and criteria discussed, based upon which the decision was taken, is thus unknown to me.

7.This Court appreciates that classification of temples is the prerogative of the State. This must be done, bearing in mind the guidelines that the State and HR&CE Department have formulated for this purpose. The counter filed by R2 indicates some of the parameters, such as sources of revenue of the temple, its assets, the income derived from the assets, festivals notified, quantum of devotees visiting the temple and the heritage, historical, architectural and religious importance of the temple.



8.It is everybody's case that the Arulmighu Nellaiyappar Arultharum Kandhimathy Amman Temple satisfies some of the attributes as aforesaid, in full, whereas details of other criteria such as the assets and their deployment have not been made available to the Court.

9.Pursuant to proceedings dated 26.12.2006, some of the temples referred to therein have been upgraded, as per GO.Ms.No.465, Tamil Development Charitable Endowment and Information (AN-2.1) Department, dated 21.11.2007 though not the temple in question.

10.Since the counter does not answer the specific query as to what the debilitating factor is that stands in the way of upgradation of the temple, a direction is issued to R2 to consider the representations of the petitioner dated 19.10.2015 and 02.01.2018 and pass a speaking order, after hearing the petitioner or his representatives, within a period of eight weeks from the date of uploading of this order on the website of this Court.

11.This Writ Petition is disposed in the aforesaid terms. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

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

1.The Secretary to Government of Tamil Nadu,
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Chennai.

2.The Commissioner,
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3.The Executive Officer,
Arulmighu Nellaiyappar Arultharum Kandhimathy Amman Temple,
Tirunelveli Town.

+1 CC to M/s.SPL.GP (SR-1674[F] dated 19/01/2022)

W.P. (MD)No.12189 of 2018

Dated:

11.01.2022

RK(15/02/2022) 4P 5C