



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) .No.14353 of 2015
and
M.P. (MD) .Nos.1 and 2 of 2015

Chidambaram @ Murugan

... Petitioner

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
119, Uthamar Gandhi Road,
Nungambakkam,
Chennai-34.

2.The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Tirunelveli Region,
Tirunelveli.

3.The Executive Officer,
Arulmighu Gopala Krishnaswamy Temple,
Krishnapuram,
Kadayanallur,
Tirunelveli District.

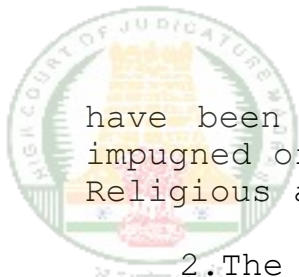
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records relating to the impugned order made by the second respondent in his proceedings Sa.Mu.Na.Ka.No.4132/2014/E1 dated 05.08.2014 and quash the same as illegal.

For Petitioner	: Mrs.Jasima Yasmin For M/S.Ajmal Associates
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader
For R3	: No Appearance

ORDER

The petitioner has challenged the impugned order, dated 05.08.2014, passed under Section 49 of the Hindu Religious and Charitable Endowments Act, 1959. By the impugned order, the second respondent appointed a fit person. The impugned order appears to



have been communicated exactly one year after it was passed. The impugned order was based on the report of the Inspector of the Hindu Religious and Charitable Endowments Department .

2.The learned counsel for the petitioner submits that the impugned order has to go as it has been passed in gross violation of principles of natural justice inasmuch as the no prior notice was issued to the petitioner before the decision was taken to appoint the fit person in the impugned order. That apart, it is submitted that it is based on the report of the Inspector of Hindu Religious and Charitable Endowments Department copy of which has also not been furnished to the petitioner. The learned counsel for the petitioner further submits that the impugned order is cryptic and gives no reasons for appointing a fit person.

3.The learned counsel for the petitioner has relied upon the following cases:

(i) M.Prasana Vs The District Manager (TASMAC), Tamil Nadu State Marketing Corporation Limited and others reported in 2010 (2) CWC 922.

(ii) P.R.Thirupathy and others Vs The commissioner, Hindu Religious and Charitable Endowments Department and others reported in 2015-3-L.W.106.

(iii) N.Sivasubramanian Vs The Government of Tamil Nadu, rep. by its Secretary, Hindu Religious and Charitable Endowments Department and others reported in 2006 (2) CTC 49.

4.On the other hand, the learned Special Government Pleader for the respondents 1 and 2 submits that the Inspector of Hindu Religious and Charitable Endowments Department, Sankarankovil Division had visited the above said temple on many times to order to serve the impugned order to the petitioner. However, despite the best of efforts, notice could not be served as the petitioner was not traceable. Meanwhile the third respondent had also sent a letter to the petitioner at the above said temple on 17.06.2015 in order to hand over the charges to him but the same did not evokes any response. After the Inspector of Hindu Religious and Charitable Endowments Department, Sankarankovil Division came to know the petitioner was residing in Cumbum, Theni District thus the impugned order was sent by registered post on 04.08.2015 and the same was received by him on 05.08.2015.

5.I have considered the arguments by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2.



6.By the impugned order, the second respondent has appointed the third respondent herein as a fit person. The order has been passed served after the impugned order passed. It is based on the report of the Inspector. It does not give any particulars or reasons for appointing the third respondent as a fit person.

7.Considering the same, I am inclined to quash the impugned order and remit the case back to the respondents to pass fresh order after giving a proper show cause notice to the petitioner giving reasons why a fit person under Section 49 should not be appointed for the temple. This exercise shall be carried out by the respondents by issuing notice within a period of thirty days from the date of receipt of copy of this order. The appropriate orders may be passed within a period of two months thereafter. It is needless to state that before passing any such order, the petitioner shall file a reply and shall be heard.

8.The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
119, Uthamar Gandhi Road,
Nungambakkam,
Chennai-34.

2.The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Tirunelveli Region,
Tirunelveli.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-18472[F] dated 13/04/2022)

+1 CC to M/s.SPL.GP. (SR-18140[F] dated 12/04/2022)

W.P(MD) .No.14353 of 2015
11.04.2022

RS (27.04.2022) 3P-5C

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