



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) No.266 of 2016

WEB COPY

N.Mohanaram,
Trustee of Sri Ammaluammal @ Guruvammal
Charitable Endowments,
Alwarpuram,
Madurai North Taluk,
Madurai District.

.. Petitioner

Versus

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

2.The Fit Person or Sri Ammalummal @
Guruvammal Charitable Endowments/
The Executive Officer of Arulmigu
Madhanagopalaswamy Temple, Madurai.

3.The Tahsildar,
Madurai North Taluk, Madurai.

4.The Inspector of Police,
Madhichiyam Police Station, Madurai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in Se.Mu.Na.Ka.No.5876/2015 Aa1, dated 23.12.2015 and quash the same.

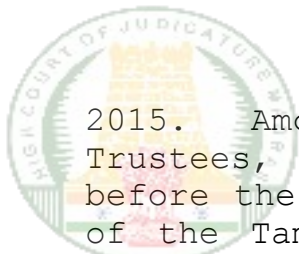
For Petitioner : Ms.J.Anandhavalli

For R1, R3 and R4 : Mr.P.Subbaraj
Special Government Pleader

For R2 : Mr.S.Manohar

ORDER

The petitioner is one of the Trustees, who was appointed pursuant to the order of this Court along with four others on 09.09.2014. It appears that certain allegations were levelled against the Trustees pursuant to the direction of this Court, by the Joint Commissioner, that they had failed to maintain proper accounts for a sum of Rs.1,48,477/- for the Chithirai festival during April



2015. Among the three Trustees, who were suspended, two of the Trustees, viz., P.Vasudevan and K.Rengaraj preferred an appeal before the Commissioner, H.R. & C.E. Department under Section 53(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the H.R. & C.E. Act']] against the impugned order passed by the Joint Commissioner under Section 53(2) of the H.R. & C.E. Act. The petitioner is one among the three Trustees, who were suspended, has filed the present Writ Petition.

2.It is noticed that since the appeal filed by two of the Trustees has been allowed and the impugned order suspending the petitioner and two other Trustees namely, P.Vasudevan and K.Rengaraj has been set aside, the impugned order is no longer in force. The order of the Commissioner under Section 53(5) of the H.R. & C.E. Act, bearing order in D.Dis.A.P.2/2016 D2, dated 23.06.2016, states that while imposing suspension as a punishment under Section 53(2) of the H.R. & C.E. Act, the period of suspension should be specified, however, the Joint Commissioner failed to specify the period of suspension. Therefore, the impugned order suffers from infirmity and hence, the same is liable to be set aside. That apart, it has been observed that this is not a case of misappropriation. If expenditure was made without vouchers, that amount can be recovered by initiating surcharge proceedings under Section 90 of the H.R. & C.E. Act.

3.Since the impugned order has been set aside by the Commissioner vide the aforesaid order dated 23.06.2016 in a statutory appeal filed by the other two trustees under Section 53(5) of the H.R. & C.E. Act, I do not find any reason to differ with the same. It appears that no further appeal has also been preferred against the order of the Commissioner before the Government.

4.It is further noticed that a Fit Person was appointed pursuant to the impugned order and a charge has also been handed over to the Trustees pursuant to the order dated 02.12.2021, made in W.P.(MD)No.19013 of 2016. Thus, on that count also, the impugned order is not sustainable. Therefore, the impugned order stands quashed in terms of the order of the Commissioner, dated 23.06.2016. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai.

3.The Inspector of Police,
Madhichiyam Police Station,
Madurai.

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-10528[F] dated 08/03/2022)

+1 CC to M/s.SPL GP (SR-10555[F] dated 08/03/2022)

+1 CC to M/s.S.MANOHAR, Advocate (SR-10673[F] dated 08/03/2022)

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SB(CO)

TR(18.03.2022) 3P 7C