



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) No.22873 of 2017

and

W.M.P. (MD) Nos.19177 and 19178 of 2017 and 322 of 2018

K.Subramanian

... Petitioner

/vs./

1.The Commissioner,
Hindu Religious & Charitable Endowment
(Administration) Department,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirunelveli -2.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Vadiveeswaram,
Nagercoil.

4.The Executive Officer,
A/M.Isakki Amman Thirukoil,
Muppanthal (East),
Aralvaimozhi (PO),
Kanyakumari District.

5.B.K.Narayana Karthik

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 4th respondent's impugned order dated 27/12/2016 and quash the same as illegal and consequently direct the 4th respondent to issue directions for the rotation of work in Temple Moolasthanam within the available Poojari/Assistant Poojari.

For Petitioner : Mrs.L.Victoria Gowri

For R1 to R3 : Mr.P.T.Thiraviam
Government Advocate



For R4

: Mr.B.Meltiue

For R5

: Mr.S.Balakarthick

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ORDER

The petitioner has challenged the impugned order dated 27.12.2016 passed by the 4th respondent/the Executive Officer of Arulmigu Isakki Amman Thirukoil, Muppanthal (East), Aralvaimozhi (PO), Kanyakumari District.

2.The challenge to the impugned order of the 4th respondent is that it has been passed partly in contravention of Section 55 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (herein after referred to as Act). It is submitted that the petitioner as also one Krishnan were appointed as Keelshanthi/Assistant Poojari to conduct Poojas in the said temple. It is submitted that the 4th respondent surreptitiously appointed the 5th respondent herein, namely B.K.Narayana Karthik as Additional Melshanthi.

3.According to the petitioner, the 5th respondent is a Madapalli (Cook), who was later appointed and he does not possess the requisite qualification to officiate the temple function as an Additional Melshanthi in the said temple. It is submitted that the petitioner as also the said Krishnan earlier approached this Court in W.P.(MD) Nos.13904 of 2014 and 23587 of 2016 respectively and an interim order came to be passed, pursuant to which the petitioner was allowed to continue as Poojari in the 4th respondent temple. It is further submitted that while allowing the petitioner and the said Krishnan to officiate the rituals in the said temple, the arrangement for appointing the 5th respondent was unwarranted and uncalled for as the 5th respondent was a Madapalli staff, namely a Cook in the temple kitchen.

4.Opposing the prayer, the learned counsel for the official respondents submits that the appointment of the petitioner as also the said Krishnan on 21.06.2011 by the 4th respondent/the Executive Officer was illegal and therefore, their appointment was cancelled as early as on 03.06.2013 by the 1st respondent. Suppressing the above facts, the petitioner and the said Krishnan filed W.P.(MD) Nos.13904 of 2014 and 23587 of 2016 and secured an interim order and pursuant to the interim order, an interim arrangement was made by the 4th respondent on 27.12.2016. It is further submitted that W.P.(MD) No.23587 of 2016 filed by the petitioner was disposed of on 01.03.2021 and thereafter, the request of the petitioner was rejected and there has been no regularization till date regarding the services of the petitioner in terms of the order dated 23.07.2021 and 25.06.2021. It is however conceded that the



arrangement in the impugned order still continues as no further appointment has been made.

5.The learned counsel for the official respondents further submits that the cancellation of the appointment of the petitioner as an Assistant Keelshanthi as on 21.06.2011, vide order dated 03.06.2013 has not been challenged in the manner known to law and therefore, the petitioner cannot question the appointment of the 5th respondent.

6.I have considered the arguments advanced by the learned counsel for the petitioner, learned counsel for the official respondents and the learned counsel for the private respondents.

7.The appointment of the petitioner as also the said Krishnan was a temporary arrangement on daily wages, pursuant to the interim orders passed by this Court dated 10.09.2014 in M.P.(MD) No.1 of 2014 in W.P.(MD) No.13904 of 2014 and in W.P.(MD) No.23587 of 2016 dated 02.12.2016. As far as the petitioner is concerned, the said writ petition was disposed of on 01.03.2021 and the representation was disposed of on 23.07.2021 and 25.06.2021.

8.It is the case of the petitioner that the copies of these two orders have not been communicated to the petitioner and that the petitioner is still continuing to function as Assistant Keelshanthi in the said temple. The appointment of the petitioner as also the said Krishnan and the 5th respondent, namely B.K.Narayana Karthik has to be in accordance with the provisions of the HR & CE Act, 1959. As per Section 55 of the said Act, it is only the Board of trustee, who is empowered to appoint the temple office-holders and servants in the religious institutions. The Executive Officer has no authority to appoint a person in contravention of Section 55 of the said Act.

9.Considering the above, while observing that there is no merits in the submission of the learned counsel for the petitioner that the 5th respondent could not have been appointed, the appointment of the petitioner is also questionable as the petitioner was appointed by the then Executive Officer on 21.06.2011, which was also cancelled on 03.06.2013. However the fact remains that the petitioner, the said Krishnan and the 5th respondent are continuing to discharge their function in the said temple.

10.Under these circumstances, I direct the Board of the trustees of the respondent temple to consider the appointment of the petitioner as well as the other persons, in case they are even otherwise are qualified to be appointed as a regular servants in the said temple. If the appointment of the 5th respondent has already been approved by the Board of trustees, I give liberty to the petitioner challenge the appointment of the 5th respondent before the authorities in accordance with law.



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11.The writ petition stands disposed of, in terms of the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O)

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/ /2022

Sub Assistant Registrar(CS)

To

1.The Commissioner,
Hindu Religious & Charitable Endowment (Administration)
Department,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirunelveli -2.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Vadiveeswaram,
Nagercoil.

+1 CC to M/s.SPL.GP. (SR-21692[F] dated 27/04/2022)

+1 CC to M/s.S. BALAKARTHICK, Advocate (SR-21783[F] dated 27/04/2022)

+1 CC to M/s.B.S. MELTUE, Advocate (SR-21938[F] dated 28/04/2022)

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Date:26.04.2022

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