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W.P.No.12145 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.12145 of 2016
and W.M.P.No.10499 of 2016
and W.M.P.No.12264 of 2023

Sri Mathu Kongu Vaiyapuri Nadu Madalayam
Paramarippu Sangam,
Represented by the Secretary,
No.21 F, Udumalai Bye Pass Road,
Dharapuram, Tiruppur District - 638656.

... Petitioner

VS.

- 1.The State of Tamilnadu
Rep by its Secretary
HR and CE Department,
Fort. St.George, Chennai-600001.
- 2.The Commissioner
HR & CE Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai-600034.
- 3.The Joint Commissioner
HR & CE Department,
Arul Mighu Dhandayuthapani Swami
Thiru Kovil-Temple Office,
Palani, Dindigul Dist -624601.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of



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the 3rd respondent in Na.Ka.No.3798/1999/D3 dated 15.03.2016 quash the same and direct respondents to permit the members of the petitioner Sangam to participate in the daily Vizha Pujai of Sri Dhandayuthapani Swami Temple, Palani as per the petitioner's representation dated 29.03.2016.

For Petitioner : Mrs.Hema Sampath
Senior Advocate
for M/s.R.Meenal

For R1 and R2 : Mr.K.Karthikeyan
Government Advocate (HR and CE)

For R3 : Mr.R.Bharanidharan
Standing Counsel

ORDER

The writ petition is filed challenging the order passed by the 3rd respondent directing the petitioner to pay a further sum of Rs.16,15,000/- towards performance of the Vizha Pujai in the Arul Mighu Dhandayuthapani Swami Thirukovil, Palani through the Kattalai or Endowment created by the petitioner/Sangam.

2. It is the case of the petitioner that many poojas are performed to Sri Dhandayuthapani Swami Temple, Palani daily. The first pooja that is performed during morning hours is known as 'Vizha Pujai'. The materials for performing Vizha Pujai are procured by the temple administration out of



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the interest accrued in the one time deposit made by the petitioner/Sangam.

The Executive Officer of the temple in his Proceedings in Na.Ka.No.6544/82/B6 dated 29.11.1982 acknowledged the deposit made by the petitioner/Sangam and assured them that the daily Vizha Pujai would be performed from the interest amount accrued from the investment made by the petitioner. Apart from the same, three members of the petitioner/Sangam are entitled to worship the Pujai daily.

3. In the year 2002, the 3rd respondent demanded the petitioner to pay a sum of Rs.11,00,000/- to meet the enhanced expenses. The petitioner/Sangam opposed the order and also offered to pay the daily expenses for Vizha Pujai instead of investing the huge sum of Rs.11,00,000/-. Thereafter, the respondents 2 and 3 did not make any demand and the old procedure continued. On 22.07.2011, the officials of the Temple prevented the Members of the petitioner/Sangam from attending the Vizha Pujai and hence, the petitioner sent a representation to respondents 1 and 2 requesting them to take action against the erring officials and restore the right of the Members of the petitioner/Sangam. As there was no action on the part of the respondents 1 and 2, petitioner filed a writ petition in



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W.P.No.22718 of 2011 seeking to issue Mandamus directing the authorities to restore the customary rights available to the petitioner/Sangam.

4. This Court by order dated 03.11.2011 permitted the petitioner to make a representation before the authorities and directed them to pass orders. However, the respondents 1 and 2 did not pass any orders by conducting enquiry.

5. Subsequently, on 21.03.2013, the 3rd respondent directed the petitioner to pay a sum of Rs.19,03,000/- towards performance of daily poojas. The petitioner/Sangam deposited the entire sum demanded by the 3rd respondent namely Rs.19,03,000/- on 05.04.2013. Subsequently, on 13.01.2016 the petitioner received the impugned demand notice directing the petitioner to pay a further sum of Rs.16,15,000/-.

6. It is also stated by the petitioner that though the impugned demand notice referred to the proceedings of the 2nd respondent dated 24.06.2015, the same has not been enclosed along with the impugned demand notice issued by the 3rd respondent. The petitioner sent a detailed representation



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dated 29.03.2016 requesting the 3rd respondent to withdraw the communication directing the petitioner to pay further sum towards Vizha Pujai. In the representation, the petitioner also stated that the details of the expenses incurred by the 3rd respondent has not been shared with the petitioner. Therefore, the impugned demand notice directing the petitioner to pay a further sum of Rs.16,15,000/- is an arbitrary one. Since the 3rd respondent failed to consider the representation of the petitioner opposing the impugned demand notice, the petitioner has come up by way of this writ petition challenging the said demand notice.

7. The learned Senior Counsel appearing for the petitioner assailed the impugned demand notice mainly on the ground that the direction to pay further amount issued to the petitioner is without any basis and the same was issued arbitrarily without sharing the details of expenses incurred by the 3rd respondent. It is also submitted by the learned Senior Counsel for the petitioner that similar notice was not issued to other persons engaged in various Kattalais/Endowments.



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8. Mr.R.Bharanidharan, learned Standing Counsel appearing for the 3rd respondent, on instructions, submits that the impugned demand notice was issued only to meet the increase in the expenses of articles used in the temple Pooja. The learned Standing Counsel further submitted that the impugned order has been passed only due to the enhanced expenditure incurred by the Temple for performing daily poojas. The correctness or otherwise of the demand made by the 3rd respondent depends on the expenditure incurred by the 3rd respondent for performing daily poojas.

9. It is the case of the petitioner that the demand notice has been made directing the petitioner to pay an exorbitant sum, towards performance of the poojas. On the other hand, the 3rd respondent filed his counter affidavit stating that the impugned notice was issued based on the enhanced expenditure. In such circumstances, this Court deems it appropriate to direct the 2nd respondent to conduct an enquiry with regard to the issues raised by the petitioner. The petitioner also submitted a representation dated 29.03.2016 pursuant to the impugned demand notice issued by the 3rd respondent. The 2nd respondent is directed to consider the issues raised by the petitioner in his representation dated 29.03.2016, after issuing notice to



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the petitioner, 3rd respondent as well as other interested persons and pass suitable orders within a period of twelve weeks from the date of receipt of copy of this order. Till final decision is taken by the 2nd respondent, the impugned demand notice should be kept in abeyance.

10. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

22.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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2. The Commissioner
HR & CE Department,
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S.SOUNTHAR, J.

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