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W.P. No.10270 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.10270 of 2018 and
W.M.P.No.12201 of 2018

Rev.V.Thomas

... Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram – 631 501.

2. The Panchayat President / Special Officer,
Paleswaram Village Panchayat,
Block Development Office,
Uthiramerur – 603 406.

3. The Block Development Officer,
BDO Office, Uthiramerur – 603 406.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records culminated in 1st respondent's impugned Notice in ref.RC:19632/2017/M1, dated 16.04.2018, and quash the same as illegal.

For Petitioner : Mr.Srinivas Krishnan for
M/s.R.Prabhakaran

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader [R1 to R3]



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ORDER

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This writ petition has been filed seeking issuance of a writ of Certiorari to quash the impugned notice of the first respondent in Ref.RC:19632/2017/M1, dated 16.04.2018.

2. It is the case of the petitioner that he is the Managing Director of St.Joseph Hospice, which was established in the year 2011, after obtaining prior permission from the Government of Tamil Nadu and the main purpose of the said institution is to cater to the needs of dying destitute. Pursuant to the letter dated 20.04.2011, submitted by the petitioner seeking burial of deceased person in their institution in the concrete cavity vault, the District Collector and Superintendent of Police vide proceedings dated 18.08.2011, after proper inspection of the facility for the concrete vault procedure had stated that burial of deceased person can be effected after informing the competent authorities and accordingly, it has been duly intimated to the concerned authorities, which further resulted in the construction of concrete cavity vault. Further, the cemetery is well built based on Roman nomenclature, wherein after the death of a person, the ceremonial last rites would be performed. Subsequently, the first respondent issued the impugned notice dated 16.04.2018, stating that the concrete vault burial method is not



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permissible until it is properly approved by the Director of Public Health and Preventive Medicine, Chennai. For quashment of the said notice dated 16.04.2018, issued by the first respondent, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submits that the burial of deceased in the concrete cavity vault is a roman nomenclature recognised by the European countries as natural and space saving mechanism. Though the said procedure is permissible in European Countries, the same was denied by the first respondent on the ground that the concrete vault burial method is hazardous to health and environment and that it is impermissible in the State of Tamil Nadu. It is further submitted by the learned counsel appearing for the petitioner that the procedure for burial and burning of dead bodies are laid down under the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules 1999, issued under G.O.(Ms) No.213, Rural Development (C4) dated 05.10.1999. However, the first respondent blatantly stated that the concrete cavity vault is not approved one in the State of Tamil Nadu. Therefore, the impugned order passed by the first respondent is wholly misconceived and is liable to be quashed.



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4. Learned counsel appearing for the respondents 1 to 3 has submitted that the burial of dead bodies in the concrete cavity vault located in petitioner's institution is not an approved method in the State of Tamil Nadu and such activity may be a potential source of infection causing nuisance and health hazard to public and other inmates of the said institution. Therefore, the order impugned in this Writ petition needs no interference of this Court and deserves to be dismissed.

5. A perusal of the impugned order reveals that the entire issue involved in the present case is with regard to the burial of dead bodies in the petitioner's institution in the concrete cavity vault. Though the said method is approved in European Countries, however, the said practice is denied by the first respondent vide impugned notice dated 16.04.2018 citing that it is impermissible in the State of Tamil Nadu and unless and until it is properly approved by the Director of Public Health and Preventive Medicine, Chennai, the same cannot be permitted. However, as per the medical advice, the corpse have to be disposed of only as per the Tamil Nadu District Municipalities Act and respective rules. Further, when the Government has not permitted an activity as a policy decision in the interest of health of its



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citizens, this Court cannot issue any affirmative direction on the ground that the said method is permissible in European Countries and more so, when the burial of the dead bodies is governed by the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules 1999. Hence, the impugned order dated 16.04.2018 issued by the first respondent cannot be found fault with.

6. For the reasons aforesaid, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non speaking order : Yes / No

To

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M.DHANDAPANI, J.

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