



W.P. No. 15005 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED 01.09.2023

CORAM

**THE HONOURABLE Mr. JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr. JUSTICE P.D.AUDIKESAVALU**

**W.P. No. 15005 of 2020
and
W.M.P. Nos. 18679 to 18681 of 2020**

Ayira Vysya Jagadguru Sri. Shankara Subramanya Dharma
Siva Acharya Swamigai,
Madathipathy,
Sri Thiruvallangadu Immudi Agora Dharma Sivachariya Ayira Vysya Mutt,
Nerinjipettai – 638 326,
Andhiyur Taluk,
Erode District.
Petitioner

...

-VS-

1. Government of Tamil Nadu,
Rep. by its Chief Secretary,
Fort St. George,
Chennai – 600 009.
2. The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.
3. The Secretary to Government,
HR & CE Department,
Government of Tamil Nadu,
Fort St. George,



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Chennai – 600 009.

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4. The Principal Secretary / Commissioner of Revenue Administration,
Chepauk,
Chennai – 600 005.

5. The Principal Secretary / Commissioner of Land Administration,
Chepauk,
Chennai – 600 005.

6. The Commissioner,
Hindu Religious and Charitable Endowments (Administration) Department,
Chennai – 600 034.

7. The Commissioner,
Directorate of Town and Country Planning,
No. 807, Anna Salai,
Chennai – 600 002.

8. The Commissioner,
Town Panchayat,
Directorate of Town Panchayat,
Kuralagam,
Chennai.

9. The Commissioner,
Geology and Mining Department,
Guindy,
Chennai – 600 032.

10. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai – 600 002.

11. The Registrar of Co-operative Societies,
EVR Road (Poonamalee High Road),
Kilpauk,
Chennai – 600 010.



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12. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 600 004.
13. The Inspector General of Police,
Central Bureau of Investigation,
Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.
14. The District Collector,
Erode District.
15. The District Collector,
Namakkal District.
16. The District Collector,
Salem District.
17. The Superintendent of Police,
Erode District.
18. The Superintendent of Police,
Namakkal District.
19. The Inspector of Police,
(District Crime Branch),
Erode.
20. The Inspector of Police,
Rasipuram,
Namakkal District.
21. The Inspector of Police,
Ammappettai,



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Erode District.

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22. Chairman Board of Trustees,
Sri Thiruvallangadu Immudi Agora Dharma Sivachariay Ayira Vysya Mutt,
Nerinjipettai – 638 326,
Bhavani Taluk,
Erode District.
(R19 to R22 are impleaded vide order
dated 24.03.2023 in W.M.P. No. 560 of 2023) ...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying for a Writ of Mandamus, directing the CBI, Thirteenth Respondent herein to investigate into the irregularities and illegalities committed in the administration of Sri Thiruvallangadu Immudi Agora Dharma Sivachariya Ayira Vysya Mutt and to file a report to this Court.

For Petitioner : Mr. R.Jeyamurugan

For Respondents : Mr. T.Sampath Kumar,
Government Advocate
(for R1, R2, R4, R5, R14, R15 & R16)

Mr. N.R.R.Arun Natarajan,
Special Government Pleader
(for R2, R3 & R6)

Mr. Balamurugan,
Government Advocate (for R7 to R9)

Mr. R.Muniyapparaj,
Additional Public Prosecutor
(for R12, R13, R17 to R21)



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ORDER

(Order of the Court was made by P.D.AUDIKEVALU, J.)

Heard Mr. R.Jeyamurugan, Learned Counsel for the Petitioner, Mr. T.Sampath Kumar, Learned Government Advocate appearing for the First, Second, Fourth, Fifth, Fourteenth, Fifteenth and Sixteenth Respondents, Mr. N.R.R.Arun Natarajan, Learned Special Government Pleader appearing for the Second, Third and Sixth Respondents, Mr. Balamurugan, Learned Government Advocate appearing for the Seventh to Ninth Respondents and Mr. R.Muniyapparaj, Learned Additional Public Prosecutor appearing for the Twelfth, Thirteenth, Seventeenth to Twenty First Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who claims to be the Madathipathy of Sri Thiruvallangadu Immudi Agora Dharma Sivachariya Ayira Vysya Mutt (hereinafter referred to as 'the Mutt' for short) has invoked the jurisdiction of this Court under Article 226 of the Constitution to direct the Central Bureau of Investigation to investigate into the irregularities and illegalities said to have been committed in the administration of the Mutt.



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3. According to the Petitioner, the circumstances which have led him to file this Writ Petition is that the police authorities of the State had not acted upon the complaints relating to the Mutt lodged by him so far. However, the said circumstances, even if true, cannot by any stretch of imagination, confer any right on the Petitioner to seek investigation into the affairs of the Mutt by the Central Bureau of Investigation.

4. In the authoritative pronouncement of of the Constitution Bench of the Hon'ble Supreme Court of India in ***Lalita Kumari -vs- State of U.P.*** [(2014) 2 SCC 1], the law relating to setting the criminal law in motion has been laid down as follows:-

“120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a



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cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. *If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.*

120.4. *The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.*

120.5. *The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.*

120.6. *As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and*



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circumstances of each case. The category of cases in which

preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes*
- (b) Commercial offences*
- (c) Medical negligence cases*
- (d) Corruption cases*
- (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.*

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. *While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.*

120.8. *Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station,*



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we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

In view of the said legal position, if according to the Petitioner, any offence punishable under law has been committed by any person relating to the Mutt, he would have to pursue the legal remedies under the Code of Criminal Procedure, 1973, following the aforesaid directions issued in the binding decision.

5. In such circumstances, without expressing any view on the merits of the controversy involved in the matter, this Court is not inclined to entertain the Writ Petition.

In the upshot, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.



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(R.M.D., J.)

(P.D.A., J)

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Index: Yes / No

Speaking order/ Non-speaking order

Neutral Citation: Yes / No

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**R.MAHADEVAN, J.
and
P.D.AUDIKESAVALU, J.**

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