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W.P.No.9783 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9783 of 2023

and

W.M.P.No.9864 of 2023

Arulmigu Pavalavannar and
Pachaivannar Swamy Devasthanam,
Represented by its Hereditary Trustee
C.Adhilakshmi,
W/o.Balaji
Residing at
No.12A, Calendar Street,
Kancheepuram.

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Nungambakkam High Road, Nungambakkam,
Chennai – 600 034.

2.Joint Commissioner,
Hindu Religious and Charitable Endowment,
Kanchipuram – 631 501.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Kanchipuram – 631 501.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, call for the records from the Second respondent herein pertaining to the impugned notice in O.M.No.142/2023/A3 dated 17.03.2023 and quash the same.

For Petitioner : Mr.S.Prabhu
For Respondents : Mr.K.Karthikeyan
Government Advocate
[For HR & CE]

ORDER

The writ on hand has been instituted challenging the enquiry call letter issued by the 2nd respondent / Joint Commissioner, Hindu Religious and Charitable Endowment Department in proceedings dated 17.03.2023.

2. The petitioner states that the subject Temple is a listed Temple and falling under the purview of the 1st respondent. The petitioner was appointed as Trustee and looking after the administration of the Temple and its properties. The Temple's presiding deities are Arulmigu Pavalavannar and Pachaivannar Swamy. The Temple is one amongst the 108 Vaishnavite Temples and it is more than 1000 years old. It is a Divya Desam and the Temple deities were offered Mangalasasanam by one of the Alwars namely



Thirumangai Alwar. The Temple has got many properties, some of them were earned by the ancestors of the petitioner and some were dedicated to the Temple. From and out of rental income the Temple activities are maintained.

3. The learned counsel for the petitioner states that there are some irregularities in dealing with the Temple properties and the authorities are colluding with the tenants. The petitioner is taking effective steps to utilise the property for the benefit of the temple, but the authorities are repeatedly issuing notice under the guise of enquiry and therefore, the impugned call letter is to be set aside.

4. The learned Government Advocate appearing on behalf of the Hindu Religious and Charitable Endowment Department made a submission that the petitioner is frequently filing writ petitions before the High Court to escape from the clutches of the various proceedings initiated by the competent authorities. The authorities are calling upon the petitioner to submit all the relevant documents for the purpose of conducting an enquiry. Instead of participating in the process of enquiry the petitioner has chosen to file the present writ petition and thus, the writ petition is to be rejected.



5. Even in the earlier writ petition filed by the petitioner to quash the notice dated 31.12.2021 in W.P.No.1599 of 2022, this Court passed final orders on 04.02.2022, with the following observations:

“10. The litigants are also now adopting the tactics of prolongation by filing writ petition after writ petition at each stage of enquiry. Such writ petitions cannot be encouraged by the High Courts. For each and every notice writ petitions are filed. Those writ petitions are not even fit to be admitted by the High Court. Therefore, the maintainability of the writ petitions is the primary issue which has to be considered at the stage of admission by the High Courts. Such writ petitions filed with an idea of prolongation and protraction of the issue and with a motive to escape from the clutches of law must be dealt with in an appropriate manner. Thus, the Courts cannot encourage such a practice of admitting such writ petitions.

11. In the present case, the enquiry call letter is under challenge. The petitioner is at liberty to place all the explanations or reply to the authorities concerned and cooperate for the purpose of recovery of temple properties in the



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manner known to law. The very filing of the writ petition itself raises a doubt in the mind of the authorities as instead of cooperating, the petitioner has chosen to file the writ petition. Therefore, the authorities are bound to conduct the enquiry in a speedy manner and conclude the same as expeditiously as possible and initiate all further action for recovery of temple properties and to recover the financial loss or damages, if any.

12. In this view of the matter, the petitioner is directed to cooperate with the enquiry by the competent authorities of the H.R.&C.E., Department and in the event of non-cooperation, the respondents shall record such non-cooperation in the proceedings itself and continue to proceed with the enquiry and conclude the same as expeditiously as possible and initiate all further action, which all are necessary to protect the temple properties, jewelleryes and belongings and to recover the properties and deal with the same in the interest of the temple in accordance with the provisions of the Act and Rules. It is made clear that the respondents shall fix the date and time of enquiry and communicate the same to



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the petitioner and if a particular date is fixed, the authorities must ensure that the enquiry is conducted on that particular date without asking the petitioner to come then and there on their choice.

13. With the above observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.”

6. The present impugned enquiry call letter also reveals that the petitioner has been asked to submit his explanations / defence in person on 03.04.2020 at 11:00 a.m in the Office of the Joint Commissioner, H.R.&C.E Department, Kanchipuram. Instead of submitting his explanations along with the documents if any, the petitioner has chosen to file the present writ petition.

7. No writ against an enquiry call letter is entertainable in a routine manner. If at all any such enquiry call letter has been issued by the an incompetent authority having no jurisdiction or an allegation of *mala fides* are raised, then alone a writ is entertainable. The learned counsel for the



petitioner though raises certain allegations in order to fit in this case, within the scope of *mala fides*, there are no such allegations against those Officials in person and none of the official has been impleaded as a party / respondent in its personnel capacity.

8. In the event of raising an allegation of *mala fides*, the authority, against whom such an allegation is raised must be impleaded as a party / respondent in its personnel capacity. In the absence of any such impleadment, the Court would not be in a position to consider such allegations made personally against Officials concerned.

9. The petitioner is habitually filing writ petitions against each such notices issued by the competent authorities. The petitioner has to participate in the process of enquiry to defend his case in the manner known to law. The evasive or litigative tactics adopted by the litigants, at no circumstances be encouraged by the High Court. In the present case, the petitioner is adopting such tactics and thus, the writ petition is liable to be rejected. The writ petitioner is at liberty to participate in the process of enquiry by submitting his defence / written statement along with the documents, if any, failing



which the authorities shall proceed with the enquiry on merits and pass appropriate orders without causing undue delay.

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10. The manner in which the earlier writ petitions were filed by the petitioner, though a ground to impose cost, by taking a lenient view this court has not imposed costs. However, the petitioner shall cooperate with authorities for conduct of an enquiry by following the procedures as contemplated.

11. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.03.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.

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