IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.12205 of 2023
and
W.M.P.No.12051 of 2023

M.Kalavathy ...Petitioner

Vs

1. The Commissioner,
   Hindu Religious and Charitable Endowments Department,
   Nungambakkam,
   Chennai 600 034.

2. The Joint Commissioner, Zone - 1
   Hindu Religious and Charitable Endowments Department,
   Padi, Chennai 600 050.

3. The Fit Person,
   A/M.Adippadai Prasanna Vinayagar Thirukoil,
   Mint Street, Chennai 600 079.
   Administrative Office at
   A/M.Ekambareswarar Thirukoil,
   Mint Street, Chennai 600 003. ...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the 1st Respondent in AP.140/2022/D2 dated 31.01.2023 and thereby quashing the same as illegal and consequently direct the 3rd Respondent to hand over the Administration of the temple which was taken on 22.10.2022.

For Petitioner	:	Mr.B.Leelesh Sundaram for Nathan and Associates
For Respondents	:	Mr.N.R.R.Arun Natarajan Special Government Pleader

ORDER

This writ petition has been filed questioning the impugned proceedings of the 1st respondent in AP No.140/2022/D2 dated 31.01.2023 and for a consequential direction to the 3rd respondent to handover the administration of the temple to the petitioner.

2. The case of the petitioner is that Arulmighu Adippadai Prasanna vinayagar Thirukoil is one of the listed temple under Section 46(1) of Hindu Religious and Charitable

Endowments Act (hereinafter called as the “Act”). According to the petitioner, the temple was founded by her great grandfather and the temple has been in existence for nearly 150 years. Initially, the temple was managed by its founder and later by his son and subsequently, by the grand son and they are the hereditary trustees who were administering and managing the temple. After the demise of the grand son, the petitioner started managing the temple as a hereditary trustee from the year 2010 onwards and she was continuing the same till the year 2022.

3. The grievance of the petitioner is that the Joint Commissioner had initiated proceedings against the petitioner by issuing a show cause notice dated 03.10.2022 and had framed five charges against the petitioner. The main charge against the petitioner was that the temple was never maintained and it was more than 50 years since the Kumbabhishegam was conducted and the temple was at the verge of crumbling. Therefore, since the hereditary trustee did not maintain the temple, the same

impelled the joint commissioner to initiate proceedings. While initiating the proceedings, the petitioner was suspended and a fit person was also appointed to manage the affairs of the temple.

4. The petitioner aggrieved by the same filed an appeal before the Commissioner of HR&CE under Section 53(5) of the Act. The Commissioner on considering the facts and circumstances of the case, passed the impugned order dated 31.01.2023, dismissing the appeal after finding that the appointment of the fit person was only a temporary arrangement till the petitioner clears herself from the charges that have been framed against her. The Commissioner did not find any ground to interfere with the action taken by the Joint Commissioner. Aggrieved by the same, the present petition has been filed before this Court.

5. Heard Mr.B.Leelesh Sundaram, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for respondents.

6. The learned counsel for the petitioner submitted that insofar as a temple that is administered by the hereditary trustees, there is no question of appointing a fit person and if the hereditary trustee is suspended, only the person who is coming in the line of succession can be made as the hereditary trustee to manage the temple and a fit person cannot be appointed. The learned counsel further submitted that the joint commissioner had taken a vindictive action against the petitioner in order to support the tenants to whom the property belonging to the temple was leased.

7. Per contra, the learned Special Government Pleader submitted that the action was initiated against the petitioner only on the ground that she did not maintain the temple and the temple was in a dilapidated condition and there was absolutely no maintenance and the temple was in the verge of crumbling. To substantiate the same, the learned special Government

Pleader also produced the photographs which shows the state of affairs of the temple. The learned Special Government Pleader further submitted that the petitioner till date has not given her explanation for the proceedings initiated by the Joint Commissioner. That apart, the claim made by the petitioner to appoint her son as a hereditary trustee is not sustainable since there are criminal proceedings pending against him on the allegation of land grabbing and therefore, such a person can never be appointed to administer the temple.

8. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

9. The charges that have been framed against the petitioner seems *prima facie* sustainable considering the materials that were placed before this Court. These charges were framed against the petitioner by the Joint Commissioner as early

as in the month of October 2022. Surprisingly, the petitioner has has not given any explanation for the charges till date. Therefore, if the petitioner is really interested in the administration of the temple, the petitioner should have immediately given a reply and should have attended the enquiry and should have cleared herself from all the charges. Instead, the petitioner has not chosen to give any reply for the charges.

10. After the proceedings were initiated against the petitioner, the fit person was appointed under Section 53(4) of the Act to discharge the duties and perform the functions of the hereditary trustee. Therefore, the Joint Commissioner has the power to appoint such a fit person even in case where the religious institution is under the control of a hereditary trustee.

11. The petitioner was aggrieved by the same and had filed an appeal before the Commissioner under Section 53(5) of the Act. The Commissioner on considering the facts and

circumstances of the case and the claim made by the petitioner, came to a conclusion that there is no ground to interfere with the impugned order passed by the Joint Commissioner on 03.10.2022. This Court does not find the order passed by the 1st respondent suffer from any perversity or illegality warranting the interference of this Court.

12. In the light of the above discussion, this Court has no hesitation to sustain the order passed by the 1st respondent. The petitioner is directed to give her explanation / reply for the show cause notice issued by the Joint Commissioner on 03.10.2022 within a period of four weeks from today. On receipt of the explanation, the Joint Commissioner viz., the 2nd respondent shall conduct the enquiry after affording an opportunity to the petitioner and final orders shall be passed by the Joint Commissioner within a period of eight weeks thereafter. During the interregnum period, the temple shall be under the control of the fit person appointed by the Joint Commissioner. The further

entitlement of the hereditary trustee for the person falling in the line of succession to manage the affairs of the temple, will be subject to the final decision taken by the Joint Commissioner.

13. In the result, this writ petition stands dismissed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

21.04.2023

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To

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