



Writ Petition No.11193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.11193 of 2023

and

W.M.P.No.11063 of 2023

M.S.Senkathir Prakash
S/o.M.S.Marudhachalam

...Petitioner

Vs

1.The Commissioner,
Hindu Religious & Charitable Endowment,
Uthamar Gandhi Road, Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment,
Machamapalayam Village,
Madhukarai Taluk,
Coimbatore District.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowment,
Machamapalayam Village,
Madhukarai Taluk,
Coimbatore District.

4.The Inspector,
Hindu Religious & Charitable Endowment,
Perur, Coimbatore District.

5.S.K.Bhoopathy Yadav

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings of the second respondent dated 24.03.2023 in Na.Ka.No.1090/2023/B4 and quash the same.

For Petitioner : Ms.V.S.Usharani
For Respondents : Mr.K.Karthikeyan
Government Advocate [R1 to R4]

ORDER

This writ petition has been filed challenging the proceedings of the second respondent in Na.Ka.No.1090/2023/B4, dated 24.03.2023.

2. When this writ petition came up for admission on 12.04.2023, this Court passed the following order:

"Mr.K.Karthikeyan, learned Government Advocate takes notice on behalf of the respondents 1 to 4.

2.Notice to the 5th respondent, returnable in eight weeks. Private notice is also permitted.

3.The subject matter of challenge in the present writ petition pertains to the proceedings of the 2nd respondent dated 24.03.2023, wherein, the petitioner, who was the hereditary trustee has been suspended and in his place the 5th respondent has been appointed. On going through the materials placed before this Court, it is seen that the 5th respondent has already filed a suit in O.S.No.874 of 2017 which is pending on the file of the Sub Court, Coimbatore and the 5th respondent has sought for a declaration to declare him as the hereditary trustee of the subject temple. When this suit was pending, the impugned order came to be passed. On going through the



allegations, it is seen that most of the allegations have been directed against the father of the petitioner viz., Marudhachalamoorthy. If really, the Department was concerned about the maladministration of the temple, they should have appointed a fit person and not the 5th respondent, who is already claiming such a right before the competent Civil Court. In other words, the Department should not become a party to this dispute by allowing the 5th respondent to achieve indirectly what he is attempting to achieve by way of filing a civil suit. *Prima facie*, this Court is of the view that the impugned order smacks with malafides. Hence, there shall be an order of interim stay, pending disposal of the writ petition.

Post after eight weeks."

3. When this writ petition once again came up for hearing on 16.06.2023, this Court passed the following order:

"When the matter was taken up for hearing, the learned Special Government Pleader submitted that the interim order was passed by this Court on the ground that the 5th respondent, who was claiming his right as hereditary trustee before the Civil Court was indirectly made as the fit person to manage the affairs of the temple. If that is the main grievance, the learned Special Government Pleader submitted that the 5th respondent will be removed and it will be taken care by the Executive Officer belonging to the HR & CE Department. It was further submitted that there are grave charges against the petitioner and the inquiry is pending and pending the inquiry, the petitioner was suspended. Therefore, it was contended that the inquiry can go on and it will be completed within the time limit stipulated by this Court.

2.The learned counsel for the petitioner seeks time to take instructions. Post this writ petition under the caption 'For Orders' on 22.06.2023."

4. Heard Ms.V.S.Usharani, learned counsel for the petitioner and

Mr.K.Karthikeyan, learned Government Advocate appearing for



respondents 1 to 4.

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5. This Court carefully went through the charges that have been framed against the petitioner.

6. Learned counsel for the petitioner submitted that even on an earlier occasion, the Hindu Religious and Charitable Endowments Department [for brevity 'the Department'] had initiated proceedings against the father of the petitioner for similar charges and after enquiry, it was held that the charges have not been made out and the father of the petitioner was relieved from all charges through proceedings of the Assistant Commissioner dated 17.03.2016. It was, therefore, submitted that the petitioner, who took charge only in the year 2021 is now being made to face the same charges for which his father had already given explanation and which was accepted by the Department.

7. This Court carefully went through the proceedings dated 17.03.2016 and this Court finds that the charges that were framed against



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the father of the petitioner are not similar to the charges that have been framed against the petitioner through the impugned proceedings. The petitioner is yet to give his explanation for the charges. Learned counsel submitted that insofar as the first four charges touching upon the jewellery of the temple is concerned, the petitioner had already made a representation to the Assistant Commissioner and had given all the details regarding the jewellery belonging to the temple. It was once again reiterated that the entire proceedings were initiated at the instigation of the fifth respondent and the fifth respondent was also attempting to achieve indirectly what he was not able to directly achieve in the pending suit.

8. The limited issue that is involved in the present writ petition is with regard to the proceedings initiated u/s.53 of the Hindu Religious and Charitable Endowments Act [for brevity 'the Act']. Pending the proceedings, the petitioner has been suspended in exercise of powers u/s.53(4) of the Act. When this writ petition was entertained, it was found that the fifth respondent was appointed as the fit person in the place of the petitioner, who was suspended. Hence, this Court granted interim stay. Subsequently, it was informed to this Court that the Department will not permit the fifth



respondent to act as the fit person and that an Executive Officer will be appointed to manage the affairs of the temple during the period of suspension of the petitioner. In view of the same, considering the charges that have been framed against the petitioner, this Court finds that the same requires an enquiry. It will always be left open to the petitioner to put forth his stand with all supporting documents. The enquiry shall be completed by the second respondent within the time stipulated by this Court. If ultimately the petitioner gets relieved from the charges, it goes without saying that the petitioner will continue to hold the position of a hereditary trustee in the said temple.

9. In the light of the above discussion, there shall be a direction to the petitioner to submit his explanation before the second respondent within a period of one week from the date of receipt of a copy of this order along with all relevant documents. The second respondent shall conduct enquiry after affording sufficient opportunity to the petitioner and a final decision shall be taken within a period of six (6) weeks from the date of receipt of a copy of this order. In the interregnum period, the fifth respondent will not be allowed to function as the fit person and an Executive Officer shall be



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appointed for administering the temple and the same will be subject to the final decision taken by the second respondent after completion of the enquiry.

This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2023

Note : Issue order copy by 26.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm

To

1. The Commissioner,
Hindu Religious & Charitable Endowment,
Uthamar Gandhi Road, Chennai.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowment,
Machamapalayam Village,
Madhukarai Taluk,
Coimbatore District.

N.ANAND VENKATESH, J

gm



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3.The Assistant Commissioner,
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