



Writ Petition No.16811 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16811 of 2023

and

W.M.P.No.16072 of 2023

R.Devadhi Dixshitar
S/o.Rajamannar Dixshitar

...Petitioner

Vs

- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Uttamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
R.K.Salai Road,
Mylapore, Chennai - 600 004.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Uttamar Gandhi Road,
Nungambakkam, Chennai - 600 034.



Writ Petition No.16811 of 2023

4.The Trustees
Sri Agasthiyar Ashram,
No.14, Raja Street,
Chennai - 600 017.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent order in I.A.No.1 of 2023 in O.A.No.06/2011/C1 dated 27.03.2023 issued by the second respondent and quash the same and direct the respondents to implead the petitioner.

For Petitioner : Mr.M.Maharaja

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader [R1 to R3]

ORDER

This writ petition has been filed challenging the order passed by the second respondent in I.A.No.1 of 2023 in O.S.No.6 of 2011, dismissing the impleading petition filed by the petitioner in the pending proceedings initiated by the trustees of Arulmighu Shri Agastyar Ashram, T.Nagar, Chennai, seeking for a declaration declaring the institution as a religious institution u/s.63(a) of the Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as 'the Act'].



Writ Petition No.16811 of 2023

2. Heard Mr.M.Maharaja, learned counsel for petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for respondents 1 to 3.

3. The trustees of Arulmighu Shri Agastyar Ashram, T.Nagar, Chennai, had earlier filed an application for declaring the institution as a religious institution. The same came to be rejected and a fit person was also appointed to run the affairs of the institution. These orders became a subject matter of challenge in W.P.Nos.3418 and 3419 of 2012 and W.P.No.25246 of 2016. The writ petition was heard at length and ultimately, the writ petition was allowed by an order dated 27.07.2022 by issuing the following directions:

"(a) The matter is remanded back to the file of the Joint Commissioner, HR&CE Department, Chennai. The said authority shall issue a fresh notice to the petitioner calling upon the petitioner to submit their explanation along with supporting materials. The Joint Commissioner shall strictly follow the procedure under the Holding of Inquiries Rules by affording sufficient opportunity to the petitioner. Final orders shall be passed within a period of six months from the date of receipt of a copy of this order.

(b) Pending the final orders, the petitioner shall not alienate any of the properties and shall not take any major policy decisions and shall maintain proper accounts of income and expenditure. It is made clear that if this condition is violated by the petitioner, this Court will proceed further to take action against the petitioner in



accordance with law. and

(c) The findings rendered by this Court in these writ petitions shall not have any bearing in the proceedings conducted by the Joint Commissioner and the concerned authority shall deal with the proceedings on its own merits and in accordance with law. No costs."

Pursuant to the above order, the second respondent has proceeded further to hear the application filed by the trustees u/s.63(a) of the Act.

4. The petitioner claimed that he was originally appointed as Archakar by the Joint Commissioner through proceedings dated 27.01.2012 and that he was illegally removed from this position. Therefore, the petitioner once again submitted a representation dated 08.08.2022 to appoint him as Archakar. Since this representation was not considered, the petitioner filed a writ petition before this Court in W.P.No.33077 of 2022. This writ petition was disposed of by order dated 07.12.2022 in the following manner:

"2. It is the case of the writ petitioner that he was originally appointed as archaka by the Joint Commissioner, H.R. & C.E. vide proceedings in Se.Mu.Na.Ka.No.01/2012 dated 27.01.2012 for a monthly salary. Now, the petitioner has submitted his representation dated 08.08.2022 to appoint him once again as archaka and seeks direction of this Court to consider his representation.

3. Mr.N.R.R.Arun Natarajan, the learned Special Government



Pleader takes notice for H.R. & C.E. The learned counsel brought to the notice of this Court that the appointment of a fit person to the temple has been challenged in W.P.Nos.3418, 3419 of 2012 and 25246 of 2016 and this Court allowed the writ petitions and set aside the appointment of a fit person and the matter has been remanded back to the respondents to initiate fresh proceedings and to conclude the proceedings within a period of six months. Therefore, he added that as on date, the appointment of a fit person to the temple has been set aside and this Court has directed the respondents to issue a fresh notice to decide as to whether the institution falls within the ambit of H.R.&C.E. The respondents have no power to consider the representation of the petitioner till the decision is arrived by the Commissioner of H.R.&C.E. under the H.R.&C.E. Act.

4. Such view of the matter, it is well open to the petitioner to approach the temple authorities for the present. In the event, the respondents take a decision within a period as directed by this Court and holds that Temple is under their control, the respondents may consider the representation of the petitioner then."

5. The proceedings were going on before the second respondent and during the course of the proceedings, the petitioner filed I.A.No.1 of 2023 seeking to implead him as a party to the proceedings. The main ground on which the petitioner has filed such application is that the petitioner was one of the original complainant in this matter as against the trustees of the Ashram and according to the petitioner, there has been a complete mismanagement and misappropriation committed by the trustees and as a result, valuable immovable properties belonging to the temple were converted into residential flats and the trustees misappropriated the entire



Writ Petition No.16811 of 2023

money. That apart, the petitioner also made several other complaints against the trustees. Therefore, the petitioner claimed that he is also an interested party, who must be heard in the application that was pending before the Joint Commissioner. The grievance of the petitioner is that the application was dismissed by the Joint Commissioner through the impugned proceedings dated 27.03.2023 by a non-speaking order.

6. The nature of grievance that was ventilated by the petitioner does not have a direct nexus to the issue that is pending before the Joint Commissioner. The petitioner may be having a very genuine grievance against the trustees of the Ashram. However, when the very nature of the institution is under question before the Joint Commissioner, the grievance that has been ventilated by the petitioner can be decided only after the main issue is decided by the Joint Commissioner. That is the reason why the earlier writ petition filed by the petitioner was disposed of with a direction to the petitioner to approach the temple authorities after a decision is taken by them in the application filed u/s.63(a) of the Act.

7. The order was passed in W.P.No.3418 of 2012 *etc.* batch on



27.07.2022 and the Joint Commissioner was directed to conduct an inquiry

as per the rules and pass final orders within a period of six months. This period is over long back. It is almost 11 months since the above order was passed. The petitioner had filed the application in I.A.No.1 of 2023 on 06.03.2023 and it was dismissed on 27.03.2023 and the dismissal order was furnished to the learned counsel for petitioner on 13.04.2023. The main O.A. has been heard and orders were reserved on 02.05.2023. Learned Special Government Pleader submitted that orders will be pronounced any time. In the light of these circumstances, it will be too late in the day to once again reopen the proceedings and permit the petitioner to give his statement and submit other relevant documents. The main issue has been pending for nearly 11 years and it is more expedient if the main issue is decided at the earliest. If ultimately, the request made by the trustees is allowed by the Joint Commissioner, it is always be left open to the interested parties including the petitioner to question the same. If the application is rejected, the petitioner will have no grievance and the relief sought for by the petitioner can always be independently worked out with the temple authorities.



Writ Petition No.16811 of 2023

8. In the light of the above discussion, this Court is not inclined to interfere with the impugned order passed by the second respondent.

Accordingly, this Writ Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

07.06.2023

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

To

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Uttamar Gandhi Road,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
R.K.Salai Road,
Mylapore, Chennai - 600 004.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Uttamar Gandhi Road,
Nungambakkam, Chennai - 600 034.



WEB COPY



Writ Petition No.16811 of 2023

N.ANAND VENKATESH, J

gm

Writ Petition No. 16811 of 2023

07.06.2023