



W.P.(MD) No.7723 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

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1.S.Bagavathimuthu
2.PN.Sundaram Pillai
3.R.Lakshmanan
4.S.Managavalam
5.A.Sudalaimuthu

.. Petitioners

Vs

1.The State of Tamilnadu,
through its Secretary to Government,
Hindu Religious and Charitable Endowments Dept.,
Fort St. George,
Chennai-600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Nungambakkam High Road,
Chennai.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Kancheepuram.



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4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Kancheepuram.

5.NS.Alavandar,
Interim Administrator,
Thondai Mandala Adheenam,
No.57, Niminthakara Street,
Kancheepuram.

6.PTRK.Vijayarajan,
Chairman, Advisory Committee,
Thondai Mandala Adheenam,
No.57, Niminthakara Street,
Kancheepuram.

7.K.S.Ramachandran,
Member, Advisory Committee,
Thondai Mandala Adheenam,
No.57, Niminthakara Street,
Kancheepuram.

8.MK.Balasubramaniam,
Member, Advisory Committee,
Thondai Mandala Adheenam,
No.57, Niminthakara Street,
Kancheepuram.

9.S.Kuppusamy,
Member, Advisory Committee,
Thondai Mandala Adheenam,
No.57, Niminthakara Street,
Kancheepuram.

10.K.Gnanasambandham,
Member, Advisory Committee,
Thondai Mandala Adheenam,
No.57, Niminthakara Street,
Kancheepuram.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration declaring the scheme dated 20.01.1979 in O.A.No.1 of 1978 framed by the second respondent to the Thondaimandal Adheena Mutt as unconstitutional and violative of Article 25 and 26 of the Indian Constitution and Section 107 of the HR & CE Act.

For the Petitioners : Mr.V.Srikanth

For the Respondents : Mr.R.Shunmugasundaram
Advocate-General
assisted by
Mr.N.R.R.Arun Natarajan
Spl. G.P. (HE & CE)
for respondents 1 to 4

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Satisfied with the reasons stated in the affidavit filed in support of W.M.P.(MD) No.7167 of 2023, this application to permit the petitioners to file the writ petition jointly is allowed.

2. We have heard Mr.V.Srikanth, learned counsel for the petitioners and Mr.R.Shunmugasundaram, learned Advocate-General for respondents 1 to 4.



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3. The petitioners are assailing the scheme framed by the Commissioner, Hindu Religious and Charitable Endowments Department with regard to Thondaimandala Adheenam Mutt.

4. Learned counsel for the petitioners submits that the scheme framed in the year 1979 by the Commissioner, HR & CE, is against the tenets of the religious institution. The scheme framed, as it stands, gives enormous powers to the Advisory Committee, thereby making the Madathipathi subservient to the Advisory Committee. The Madathipathi is always required to approach the Advisory Committee under the scheme and, if any dispute arises, the order of the Commissioner is final. The whole scheme defeats the very purpose and object of the religious institution. Moreover, the said scheme is also against Section 107 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for short, "*the Act of 1959*"). Learned counsel for the petitioners submits that as the scheme, on the face of it, is violative of the statutory mandate, this Court may entertain the writ petition.



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5. Learned Advocate-General objects to the locus of the petitioners and submits that an aggrieved/interested person has a remedy before the Commissioner under the provisions of the Act of 1959.

6. There is no debate that the petitioners can apply for modification of the scheme before the Commissioner. The procedure is already provided under the statute. The Commissioner framing scheme has also power to modify the scheme. If an interested/aggrieved person approaches the Commissioner for modification of the scheme, naturally, the Commissioner has to consider the application on its own merits.

7. The order of the Commissioner can also be assailed by way of a civil suit. When statutory remedies are available to the petitioners, wherein even a provision is available for adducing evidence, it would not be appropriate to invoke the writ jurisdiction of this Court under Article 226 of the Constitution.

8. In the light of the above, we are not inclined to exercise our



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power of judicial review under Article 226 of the Constitution. If the petitioners are interested/aggrieved persons, they may approach the Commissioner and/or the competent authority for vindication of their grievance. In that event, all the contentions are kept open.

9. With the above observation, the writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.(MD) Nos.7168, 7169, 7170 and 7172 of 2023 are closed.

(S.V.G., C.J.)

(P.D.A., J.)

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Index : No
Neutral Citation : No
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To:

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