



WEB COPY



W.P.No.21509 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.08.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.21509 of 2023
and W.M.P.No.20875 of 2023

D.Prabhu

...Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thiruvannamalai.

2.Mr.Suresh

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorarified Mandamus, calling for the records of the 1st respondent relating to the order in Pro.Na.Ka.No.1863/2022/A1 dated 03.05.2023 to quash the same and to issue consequential direction to the 1st respondent to permit the petitioner to continue to serve as non-hereditary trustee of Arulmigu Amman @ Mariamman Temple at Palanadal Village, Thiruvannamalai Taluk and District.



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For Petitioner : Mr.T.Panchatsaram
For Respondent 1 : Mr.N.R.R.Arun Natarajan
Special Government Pleader(HR &CE)
For Respondent 2 : No appearance

ORDER

The writ petition is filed challenging the order passed by the 1st respondent cancelling the order of appointment of petitioner as a non-hereditary trustee of Arulmigu Amman @ Mariamman Temple at Palanadal Village, Thiruvannamalai Taluk and consequently appointing the 2nd respondent as a non-hereditary trustee in the place of the petitioner.

2.The learned counsel assailed the impugned order mainly on the ground that before passing an order cancelling his appointment, the petitioner was not issued with notice and afforded with an opportunity to put forth his case.

3.Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR &CE) appearing for the 1st respondent submits that for removal of trustee, the



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1st respondent has to follow the procedure under Section 53(3) of Hindu Religious and Charitable Endowments Act, 1959 and the same has not been followed in this case.

4.Though notice was served on the 2nd respondent and his name appeared in the cause list, there is no representation for the 2nd respondent.

5.It is settled law that before passing any adverse order having Civil consequences, the affected parties must be put on notice. In the case on hand, the petitioner, who was appointed as non-hereditary trustee of the temple has been removed from the post by impugned order even without conducting any enquiry as contemplated under Section 53(3) of Hindu Religious and Charitable Endowments Act, 1956. The impugned order has been passed without following natural justice principle. Further it is a non speaking order giving no reason for removal of petitioner. The procedure contemplated under Section 53(2) and 52(3) of HR & CE Act for removal of trustee also has not been followed. Hence, impugned order is liable to be set aside.



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6. Accordingly, this writ petition stands allowed. No costs.

Consequently, connected miscellaneous petitions is closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thiruvannamalai.

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and

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