



WEB COPY



W.P.No.21726 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.21726 of 2023

K.Rajan

... Petitioner

VS.

1.The Commissioner

Hindu Religious and Charitable Endowment Department
119 Uthamar Gandhi Salai
Nungambakkam
Chennai 600 034.

2.The Joint Commissioner No.II

Hindu Religious and Charitable
Endowment Department
No.130, R.K.Mutt Road
Mylapore, Chennai 600 004.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Order of the 2nd Respondent dated 28.02.2023 quash the same and consequently direct the 1st Respondent to transfer the H.R. & C.E. Proceedings in M.P.No.134 of 2018/அ 3, dated 20-12-2018 pending before 2nd Respondent and to post the proceedings before any other Commissioner with a directions deemed necessary for the purpose of disposal of the case.



WEB COPY



W.P.No.21726 of 2023

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)

ORDER

The writ petition is filed by the petitioner challenging the order passed by the 2nd respondent dated 28.02.2023 and for a direction to 1st respondent to transfer the proceedings in M.P.No.134 of 2018/A3 dated 20.12.2018 pending before the 2nd respondent to the file of any other Commission.

2. According to the petitioner, the proceedings was initiated against the petitioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 by the 2nd respondent. In the said proceedings, the petitioner was arrayed as 25th respondent. The petitioner was examined as RW.1 and 150 documents were marked on the side of the petitioner. On 28.02.2023 when cross examination of the petitioner as RW.1 was going on, the 2nd respondent abruptly stopped the cross examination by saying the petitioner misbehaved during examination. It is the specific case of the petitioner that there is no misbehaviour by the petitioner in the



W.P.No.21726 of 2023

proceedings before the 2nd respondent.

WEB COPY

3. The petitioner filed a writ petition in W.P.No.10142 of 2023 for writ of declaration declaring that he is entitled to certified copy of the adjudication dated 28.02.2023. The said writ petition came to be disposed by directing the 2nd respondent to proceed with the case pending on his file and pass final order without any undue delay. In the said order, this Court also observed that the party is not entitled to the notes of the Presiding Officer and he cannot seek the certified copy of the same. Therefore, the prayer made by the petitioner seeking certified copy of the adjudication dated 28.02.2023 was negatived.

4. Thereafter, the petitioner filed a review application in Review Application (Writ) No.73 of 2023 and in the said review application, this Court directed the 2nd respondent to furnish the docket orders passed for the purpose of adjourning the matter on that relevant date.

5. Again, the petitioner approached this Court in



W.P.No.21726 of 2023

W.P.No.20455 of 2023 seeking a direction to the 2nd respondent to furnish the order passed on 28.02.2023 as per the order passed by this Court in review application.

6. When the matter was taken up for hearing, learned Special Government Pleader (HR and CE), who appeared for the respondents submitted that certified copy of the adjudication dated 28.02.2023 would be furnished to the petitioner within a week. Recording the same, the writ petition was disposed of with a direction to the petitioner to appear before the 2nd respondent on 24.07.2023 at 2.15 p.m and advance his arguments.

7. Now, the present writ petition is filed by the petitioner after receipt of certified copy of the adjudication dated 28.02.2023.

8. The learned counsel for the petitioner mainly submitted that the 2nd respondent made unwarranted remarks in the order dated 28.02.2023 against the petitioner as if, the petitioner misbehaved indecently. The same came to his knowledge only after receipt of certified copy of order dated 28.02.2023. According to the learned counsel, therefore, the petitioner has



W.P.No.21726 of 2023

got an apprehension that he will not get justice before the 2nd respondent.

WEB COPY

9. The learned Special Government Pleader (HR and CE) appearing for the respondents brought it to the notice of this Court that the gist of the adjudication dated 28.02.2023 was informed to this Court even in the earlier writ petition filed by the petitioner in W.P.No.10142 of 2023 and the same was recorded in the order passed by this Court in Paragraph No.13. Therefore, it is the submission of the learned Special Government Pleader that the present writ petition filed by the writ petitioner as if, he came to know of the details of adjudication only after receipt of copy of the docket order is not correct and the present writ petition is filed only to drag on the proceedings.

10. The relevant portion of the order passed in W.P.No.10142 of 2023 dated 03.04.2023 reads as follows:-

“13. In the present case, the learned Special Government Pleader appearing on behalf of the respondents / HR & CE Department made a submission that during the second day of cross-examination on 28.02.2023, the 25th respondent/writ petitioner herein had not properly answered the questions asked



W.P.No.21726 of 2023

in the cross-examination and further behaved indecently by making careless signs towards the Forum. At that point of time, the Forum decided to close the cross-examination of 25th respondent with the suggestion of the petitioner counsel and made the adjudication as 'cross closed'."

11. A perusal of the order passed by this Court in W.P.No.10142 of 2023, clearly indicate that the details of the adjudication dated 28.02.2023 was informed to this Court in open court and the same is recorded. Further, this court also proceeded to observe that the parties to the litigation must maintain decorum in the Court. Therefore, the submission made by the learned counsel for the petitioner as if, the petitioner came to know of the details of adjudication dated 28.02.2023 only after receipt of the certified copy of the adjudication from the 2nd respondent on 17.07.2023 cannot be accepted.

12. When the details of the adjudication was informed to this Court as early as 03.04.2023, if at all the petitioner had any apprehension he could have moved transfer petition before the Commissioner under Section 22 of the Tamil Nadu Hindu Religious and Charitable Endowments Act,



W.P.No.21726 of 2023

1959. Till date, he has not filed any transfer application by invoking effective alternative remedy available under Section 22 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

13. With regard to the correctness of the recording made by the 2nd respondent in the proceedings before her, sitting in writ jurisdiction, this Court cannot conduct any roving enquiry and come to a conclusion with regard to the disputed question of fact. If at all aggrieved the petitioner should have filed appropriate application before Commissioner for redressal of his grievance by invoking effective alternative remedy available under Section 22 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

14. As noted earlier by this Court, in the writ petition filed by the petitioner in W.P.No.10142 of 2023, this court directed the 2nd respondent to proceed further and conclude the same within three months. Now, the matter is in argument stage, therefore, this Court is not inclined to accept the submission made by the learned counsel for the petitioner.



W.P.No.21726 of 2023

15. Accordingly, the writ petition is dismissed. No costs.

WEB COPY

21.07.2023

Index : Yes/No
Speaking order:Yes/No
Neutral Citation:Yes/No
dm



WEB COPY

To



W.P.No.21726 of 2023

S.SOUNTHAR, J.

dm

- 1.The Commissioner
Hindu Religious and Charitable Endowment Department
119 Uthamar Gandhi Salai
Nungambakkam
Chennai 600 034.
- 2.The Joint Commissioner No.II
Hindu Religious and Charitable
Endowment Department
No.130, R.K.Mutt Road
Mylapore, Chennai 600 004.

W.P.No.21726 of 2023

21.07.2023