



WEB COPY

W.P. No.25378 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.25378 of 2023 and W.M.P. No.24790 of 2023

- | | | |
|---|---|-------------|
| 1 | Aalayam Kaappom Foundation
represented by its President
P.R. Ramanan
No.12, Nagarathinam Colony
Sir P.S. Sivasamy Salai
Mylapore
Chennai 600 004 | |
| 2 | P.R. Ramanan | Petitioners |
| v | | |
| 1 | The State of Tamil Nadu
represented by its Secretary
Department of Tourism, Culture &
Religious Endowments Department
Secretariat
Fort St. George
Chennai 600 009 | |
| 2 | The Commissioner
Hindu Religious & Charitable Endowments Department
119 Mahatma Gandhi Road
Nungambakkam
Chennai 600 034 | Respondents |

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to return all involuntary, arbitrary transfer of funds from various Hindu temples and endowments to the Hindu Religious and Charitable Endowments Common Good Fund that were



not contributions made voluntarily on and / or after 01.01.2011 till date and/or on instances where such contributions being made without adhering to the procedure laid down under Section 36 of the 1959 Act and the Rules framed thereunder and consequently, direct the respondents to repatriate the said sum to the respective temples with 7.95% interest compounded quarterly and consequently, forbear the second respondent, his men, agents, servants, officials and/or anyone else acting on his behalf, from utilizing any Fund from the Common Good Fund of temples under the control of the Hindu Religious and Charitable Endowments Department across the State of Tamil Nadu.

For petitioner Mr. Prahalad Bhat
For respondents Mr. N.R.R. Arun Natarajan
Additional Government Pleader
for H.R. & C.E. Department

ORDER

(made by S. VAIDYANATHAN, J.)

This writ petition has been filed seeking a writ of mandamus directing the respondents to return funds transferred from various Hindu temples and endowments, which were not contributions made voluntarily on and / or after 01.01.2011 till date and/or on instances where such contributions have been made without adhering to the procedure laid down under Section 36 of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959, and the Rules framed thereunder, to the Hindu Religious and Charitable Endowments Common Good Fund, and consequently, direct the respondents to repatriate the said sum to the respective temples with 7.95% interest compounded quarterly and consequently, forbear the second respondent from utilizing any



fund from the Common Good Fund of temples under the control of the Hindu Religious and Charitable Endowments Department across the State of Tamil Nadu.

2 According to the petitioners, the first petitioner-Foundation is a non-profit organisation registered under the Indian Companies Act, 2013 and both the petitioners are competent to prefer this writ petition.

3 The case of the petitioners is that the respondents will have to refund the involuntary and arbitrary transfer of funds from the Hindu temples and endowments to the Hindu Religious Charitable and Endowments Common Good Fund, inasmuch as, such amounts were transferred coercively.

4 According to the petitioners, they are mainly aggrieved by the operative portion of the proceedings dated 23.06.2021 of the second respondent, wherein, it is stated that while sending the budget for approval, if the copy of the demand draft proving the remittance of the amount allocated in the budget as Common Good Fund is not enclosed, the budget will not be approved.

5 A reading of the above portion in isolation cannot be accepted.

After scrutinising the provisional budget of Sri Angalamman Temple, Melmalaiyanur, Villupuram District, the expenses have been given as a



summary and the surplus investment amount has been shown as Rs.36.50 lakhs and a sum of Rs.35 lakhs has been shown as “Commissioner Common Good Fund Expenses”. The said temple has placed the budget proposal which has been approved by the second respondent.

6 At this juncture, for the sake of convenience, Section 97 of the Tamil Nadu H.R. & C.E. Act, 1959, is extracted below:

“97. Creation of Hindu Religious and Charitable Endowments Common Good Fund.—(1) It shall be lawful for the Commissioner to create a Fund to be called the Hindu Religious and Charitable Endowments Common Good Fund (hereinafter in this section referred to as the said Fund), out of the contributions voluntarily made by the religious institutions from their surplus funds or by any person for the renovation and preservation of needy temples and their building and paintings, for the promotion and propagation of tenets common to all or any class of religious institutions and for any of the purposes specified in sub-section (1) of section 66.

(1-A) The Commissioner may, on a direction from the Government, transfer to the said Fund, any surplus or such portion thereof, as may be specified in the direction, remaining in the Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund after the repayment of the amounts specified in sub-section (2) of section 12 and sub-section (2) of section 96.

(2) The said Fund shall be vested in and such administered by the Commissioner in such manner as may be prescribed.”

7 A reading of the above provision would make it clear that out of the voluntary contributions made by religious institutions from their surplus funds, the Commissioner of H.R. & C.E. has powers to transfer the said fund or a portion of such fund shall be vested in and administered by the



Commissioner. In the instant case, since there is a voluntary contribution and the same has been reflected in the provisional budget and further, since the temple concerned has not approached this Court contending that they have been coerced to remit amounts, we are of the view that in terms of Section 97, *ibid.*, the relief sought by the petitioner cannot be granted.

In the upshot, this writ petition is dismissed as bereft of merits, however, sans costs. Connected W.M.P. stands closed.

(S.V.N., J.) (K.R.S., J.)
29.08.2023

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S. VAIDYANATHAN, J.
and
K. RAJASEKAR., J.

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To

- 1 The Secretary
Department of Tourism, Culture &
Religious Endowments Department
Secretariat
Fort St. George
Chennai 600 009
- 2 The Commissioner
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