



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.25500 of 2022
and WMP Nos.24500, 24503 & 24512 of 2023

L.Haridas
S/o.Loganathan
President of Shree Beemeswarar Gnanavalli
Ponniyammal Koil Committee
No.47, Aayakulathur Village
Thodukadu Post, Sriperumbudur Taluk
Kancheepuram District 602 105 ... Petitioner

vs.

1.The Commissioner
Hindu Religious Charitable Endowment Department
Nungambakkam High Road
Nungambakkam
Chennai 600 034

2.The Joint Commissioner
Hindu Religious Charitable Endowment Department
Kancheepuram District
Kancheepuram

3.The Assistant Commissioner
Hindu Religious Charitable Endowment Department
Kancheepuram District
Kancheepuram



4.The Inspector/Executive Officer
Hindu Religious Charitable Endowment Department
Sriperumbudur, Kancheepuram District ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records from the 3rd Respondent and quashing the impugned Appointment Order dated 21.07.2022 vide his proceedings in செ.மு.ந.க.எண்.4629/2010-2.அ3, passed by the 3rd Respondent by appointing the Inspector, HR&CE, Sriperumbudur, as "Thakkar" in respect of subject Temple "Shree Beemeswarar Temple" situated at Aayakulathur Village, Thodukadu Post, Sriperumbudur Taluk, Kancheepuram District - 602 105 and quash the same which is perverse, arbitrary, *per se* illegal, untenable, smacks of malafide and colourable exercise of power, unconstitutional, biased and against all principles of law and natural justice and consequently direct the Respondents to remove all the entries of the above subject Temple in their website www.hrce.tn.gov.in under Reference ITMS NO.TM003438 which is totally illegal and further direct the Respondents to consider the Petitioner's representation dated 24.08.2022 thereby dropping the proceedings and to withdraw the Appointment Order dated 21.07.2022 with regard to the subject Temple

For Petitioner : Mr.S.L.Sударасanam

For Respondents : Mr.N.R.R.Arun Natarajan

**ORDER**

The subject matter of challenge in the present writ petition pertains to the impugned proceedings of the 3rd respondent dated 21.07.2022, wherein a fit person has been appointed for the subject temple “Shree Beemeswarar Temple”

2. The case of the petitioner is that he is the president of the temple committee and this temple is administered and maintained by the village people for a long period of time. Since the committee has to maintain the bank accounts and a PAN number was required for the same, it was formally registered in the year 2019. The petitioner claims that the temple was constructed by his forefathers and all along it was managed and administered only by the village people.

3. The further case of the petitioner is that an extent of 63 cents comprised in Survey No.71 was acquired by the Highways Department. This land according to the petitioner belongs to the



temple. When the compensation amount was fixed, the authorities directed the petitioner to get a no objection from the HR&CE Department. The petitioner aggrieved by the same, filed WP No.20954 of 2022 and this writ petition was disposed of by order dated 16.08.2022 by issuing the following directions:-

5. Heard both sides and perused the materials available on record. Considering the rival contentions of the petitioner and the HR & CE Department, this Court is inclined to direct the second respondent to hear the petitioner as well as the Sixth Respondent / Department and after conducting such hearing, the land acquisition officer shall disburse the compensation amount to the eligible persons, if there is any dispute with regard to finding out the eligible persons and in determining fair compensation, the first respondent shall refer the matter to the competent Civil Court under Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) within a period of twelve weeks from the date of receipt of a copy of this Order.



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4. The grievance of the petitioner is that the 3rd respondent in a hasty manner had proceeded to appoint a fit person for the temple through the impugned proceedings dated 21.07.2022 and this action was taken without putting the petitioner on notice and without hearing the interested parties.

5. The 4th respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder :-

8. The contention of the Petitioner that the temple in question is a private temple and not under the HR and CE Department is denied as misconceived. The Petitioner has not obtained any declaration either under Section 63 (a) of the HR and CE Act before the Joint Commissioner on the character of the Institution or before the Civil Court to declare the temple as a private temple. Further the Revenue records of the temple, mentions as follows,



"71---Manager for the time being for Bhimeshwarar Temple Puja".

The Land stands in the name of the temple and land is classified as an endowment, endowed for the purpose of conducting the pooja. Hence the Petitioner has to first establish that the temple is a private temple by filing a necessary suit for declaration before the Civil Court. Further the land is an endowment and the petitioner cannot claim any right over the said land.

The 4th Respondent states that the land in Survey No.71 an extent of 0.25.50 acres was acquired by Government Highways Department for forming the express highway by order passed by the DRO, Kancheepuram Na.Ka.No.147/2018 BCE NH Date 08.01.2020. The Petitioner having come to know about the initiation of acquisition proceedings, in a hurried manner constituted a trust by name, shree Beemeswarar Gnanavalli Ponniyamman Koil Committee by a registered trust deed dated 12.07.201. The petitioner's ulterior motive is to grab the Arulmighu Bheemeswarar Temple land acquisition amount and misuse the money.



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9. The Assistant Commissioner of HR&CE issued the order for appointment of "Thakkar" SE.Mu.Na.KA.No.4629 /2020/A3 dated 21.07.2022 appointing the 4th respondent as the Thakkar Bheemeswarar Temple under section 49(1) of the Act in order to safeguard the temple properties and to look after the administration. The writ petitioner is illegally trying to grab the temple land acquisition compensation amount of Rs.90,74,155/- (Ninety Lakhs Seventy Four Thousand One Hundred and Fifty Five only) and created a temporary trust along with his supporters and day by day created unnecessary problems to the HR &CE officers. The writ petitioner came along with more than 50 village people created problem and fought with the 2nd Respondent special DRO, Bangalore chennai express Highway project Kancheepuram District.

6. Heard Mr.S.L.Sudarasanam, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE).



7. The main ground that was raised by the learned counsel for the petitioner is that the temple in question was never under the control of the HR&CE Department and the Department has straight away proceeded to pass an order appointing a fit person without any enquiry and that the same requires the interference of this Court.

8. Per contra, the learned Special Government Pleader appearing on behalf of respondents submitted that the committee itself came into existence only in the year 2019 with a view to knock off the compensation amount that is due and payable to the temple by the Highways Department. Therefore, the department wanted to safeguard the interest of the temple and to ensure that the money is not taken away by persons who are not entitled to it. Accordingly, the fit person was appointed for the temple. The learned Special Government Pleader further submitted that the petitioner is not in control and administration of the temple and it was taken care by the villagers and therefore, there was no occasion for the Department to issue a notice to the petitioner and to conduct an enquiry before the fit person was appointed. In view of the same,



the learned Special Government Pleader sought for the dismissal of this writ petition.

9. This Court has carefully considered the submissions and the materials available on record.

10. There is no dispute with regard to the fact that the temple in question was administered by the village people. Even as per the revenue records that was produced by the learned Special Government Pleader, it is seen that it is in the name of the Manager for the time being of Bhimeswarar temple for puja - Tharkaliga Dharmakartha. It is clear from the entry made in the revenue records that there was a temporary Manager / service holder, who was administering the temple. There is also no dispute with regard to the fact that the HR&CE Department was never in the scene and they came into the scene only at the time when the order was passed appointing the fit person.



10. This Court has repeatedly held that wherever a fit person is appointed, the same should be done after issuing notice and after hearing the interested parties. Useful reference can be made to the judgement of the Division Bench in [*Sri Ram Samaj Vs. The Commissioner*] reported in *CDJ 2022 MHC 1993*. It was made very clear in this judgement that before passing the order under Section 49 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, appointing a fit person, an enquiry must be conducted and the interested persons must be heard. This procedure has not been followed by the Department.

11. The main apprehension that was raised by the learned Special Government Pleader was that the petitioner is attempting to take away the entire compensation amount which is sought to be paid to the temple. This apprehension raised by the department has been sufficiently taken care by the earlier order passed by this Court in the writ petition wherein a direction has been given to the concerned authority to disburse the compensation only to the eligible persons and even if there is a dispute with regard to the



same, to refer the dispute to a competent Civil Court. Therefore, there is no real possibility of the compensation amount being handed over to the petitioner without the petitioner establishing their eligibility. It goes without saying that while deciding this issue, the interest of the temple will also be safeguarded by the Department.

12. In the light of the above discussion, the impugned proceedings of the 3rd respondent in செ.மு.ந.க.எண்.4629/2010-2.அ3 dated 27.02.2022 is hereby set-aside. If the Department wants to appoint a fit person for the temple, they shall follow the mandatory procedure by issuing notice and hearing the interested parties and thereafter, shall take decision. It is also made clear that the order passed in this writ petition does not in any way indicate or recognise that it is only the petitioner who is entitled to receive the compensation from the Highways Department for the land acquired from the temple. It is an independent issue which has nothing to do with the present writ petition.



13. In the result this writ petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

13.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

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N. ANAND VENKATESH, J.
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