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W.P.No.34655 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.34655 of 2022

and

W.M.P.Nos.34098, 34100, 34102 of 2022

- 1.S.Mohan
- 2.Raman Naidu
- 3.Bakthavatchalam
- 4.Manjambakkam Ellaiamman Charitable Trust
No.1, Kamarajar Salai,
Manjambakkam-600 060.

...Petitioners

Vs.

- 1.The Commissioner
H.R.& C.E.Department,
Nungambakkam, Chennai-600 34.
- 2.The Assistant Commissioner
H.R.& C.E.Department,
Yadhava Street, Padi, Chennai-600 050.
- 3.The Executive Officer,
A/mSowmiya Dhamodhara Perumal
Villivakkam, Chennai-600 049.

...Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari, calling for the records of the proceedings thereby quashing the Se.Mu.Na.Ka.220 of 2010 dated 22.01.2010 by the Assistant Commissioner, H.R.& C.E.Department, appointing the 3rd respondent, the Executive Officer of the Sowmiya Dhamodhara Perumal temple Villivakkam as the “Fit person” of the Ellaiamman Temple, Manjambakkam village now in Manali Zone-2 within the limits of the Chennai Corporation.

For Petitioners : Mr.P.Rajendra Kumar

For Respondents :Mr.N.R.R.Arun Natarajan,
Special Government Pleader

ORDER

The writ petition is filed challenging the order passed by the 2nd respondent appointing the 3rd respondent as a fit person of the temple.

2.According to the petitioner, he is the President of temple committee appointed by the villagers to look after the administration of Sri Ellaiamman Temple in Manjambakkam Village, Madhavaram Taluk, Chennai. The temple



was re-constructed and Kumbabishegam was performed on 02.09.2001. It is also stated by the petitioner on 15.03.2022, a staff from the 2nd respondent office came to the village and informed the petitioner and other temple committee members that a fit person has been appointed to the temple and he was directed to take charge of the temple. The petitioner, on verification got copy of the order passed by the 2nd respondent on 22.01.2010 appointing the 3rd respondent as a fit person of the temple. Thereafter, all the villagers submitted a representation to the 2nd respondent on 16.03.2022 requesting him to withdraw the order appointing fit person. However, there was no response from the 2nd respondent. In this circumstances, the petitioner was constrained to file the above writ petition.

3. The learned counsel for the petitioner submitted that the impugned order appointing fit person has been passed without putting the person incharge of the affairs of the temple on notice and therefore, it is a clear violation of natural justice principles. It is also stated by the petitioner that appointment of fit person is only a stop gap arrangement and the same cannot be continued perpetually. In the case on hand, the appointment of fit person



was made 12 years back and no efforts have been made to implement the same till date. In such circumstances, the order impugned is liable to be set aside.

4. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the respondents submits that the impugned order was passed by the 2nd respondent taking into consideration the welfare and better administration of the temple. He also submits that against the order passed by the 2nd respondent, an alternative remedy is available to the petitioner by way of revision before the 1st respondent and therefore, the writ petition is liable to be set aside.

5. Mr.E.Prabu, learned counsel for the petitioner in the impleading petition in W.M.P.No.1017 of 2023 submits that the petitioners indulged in various misdeeds in administering the temple and the same was brought to the notice of the authorities and only based on such complaint, the 2nd respondent has chosen to appoint fit person.



6. A reading of the impugned order passed by the 2nd respondent would indicate that the 2nd respondent decided to appoint a fit person to Sri Ellaiamman Temple in Manjambakkam Village just to improve the administration of the temple. The order was passed as early as on 22.01.2010. It is seen from the averments found in the affidavit and also the notice issued by the 3rd respondent which is included in the typed set of papers, that the order appointing fit person has not been implemented so far. Though the order was passed appointing fit person to improve the administration of the temple, the same has not been implemented by the 2nd respondent for the past 12 years. Therefore, the very object for which the impugned order was passed has become redundant now. Therefore, this Court is inclined to set aside the order passed by the 2nd respondent appointing 3rd respondent as a fit person of the temple.

7. The learned Special Government Pleader further submits that there are certain allegations against the administration of the temple by the persons in control of the temple. Therefore, liberty may be given to the department to enquire into the issues.



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8. It is needless to say that if the 2nd respondent receives any complaint from the general public regarding the maladministration of the temple, it is always open to the 2nd respondent to conduct enquiry after issuing notice to the persons incharge of the temple, the petitioner and other interested persons and pass order in accordance with law.

9. With this observations, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

25.07.2023

(2/2)

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