



W.P. (MD) No. 3339 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 3339 of 2006

and

W.P.M.P.(MD) Nos.2 to 4 of 2009

1.Rama @ Ondachi Poosari
2.Veeramalai
3.Mariappan

... Petitioners

-VS-

1.The Commissioner,
H.R.& C.E., (Administration),
Chennai.

2.The Joint Commissioner,
H.R.& C.E., (Administration)
Tiruchirappalli.

3.Annakodi

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent dated 12.09.2001 passed vide his proceedings in Nada.Ne.Mu.38987/2001/L5 and quash the same.

For Petitioners	: Mrs. J.Anandhavalli
For R1 & R2	: Mr. P.Subbraj, Special Government Pleader
For R3	: Mr. P.Athimoolapandian



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ORDER

Heard Mrs. J.Anandhavalli, Learned Counsel for the Petitioners and Mr. P.Subbaraj, Learned Special Government Pleader appearing for the First and Second Respondents and Mr. P.Athimoolapandian, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in Nada.Ne.Mu. 38987/2001/L5 dated 12.09.2001 issued by the First Respondent appointing the Executive Officer of the Arulmigu Kadambaneswarar Temple at Kuzhithalai Taluk, Karur District (hereinafter referred to as 'temple' for short) in the exercise of the powers under Section 45 (1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short).

3. It is the contention of the Petitioner, who have been treated as the hereditary trustees of the Temple by Proceedings No. 152/2018/Aa4 dated 30.10.2018 passed by the First Respondent, that the continuance of the Third Respondent as the Executive Officer of the Temple beyond five years cannot be



sustained in law. In support thereof, reliance is placed on the decision of the Hon'ble Supreme Court of India in ***Dr. Subramanian Swamy -vs- State of Tamil Nadu and others*** [(2014) 5 SCC 75], in which the following observations have been made:-

“49. We would also like to bring on record that various instances whereby acts of mismanagement/maladministration/misappropriation alleged to have been committed by Podhu Dikshitaras have been brought to our notice. We have not gone into those issues since we have come to the conclusion that the power under the 1959 Act for appointment of an Executive Officer could not have been exercised in the absence of any prescription of circumstances/conditions in which such an appointment may be made. More so, the order of appointment of the Executive Officer does not disclose as for what reasons and under what circumstances his appointment was necessitated. Even otherwise, the order in which no period of its operation is prescribed, is not sustainable being ex facie arbitrary, illegal and unjust.”

It is brought to notice that after that authoritative pronouncement, the Government of Tamil Nadu in the exercise of powers conferred by clause (i) of sub-section (2) of section 116 read with section 43-A and sub-section (1) of section 45 of the Act framed Conditions for Appointment of Executive Officers Rules, 2015 (hereinafter referred to as 'the Rules' for short) which provides that



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the period of appointment of the Executive Officer for a Religious Institution cannot exceed five years at a time.

4. Inasmuch as the appointment of the Executive Officer of the Temple in the impugned order has been beyond five years from the date of the said order as well as the date on which the aforesaid Rules have come into force, the continuance of the Executive Officer of the Temple in terms of the impugned order cannot be countenanced. In such circumstances, it is held that the appointment of the Executive Officer of the Temple shall cease to be in force with immediate effect from the date of receipt of the copy of this order by the Third Respondent.

5. In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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(1/3)

NCC : Yes/No
Index: Yes/No
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P.D. AUDIKESAVALU, J.

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