



W.P. (MD) No. 1713 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEAVALU

W.P. (MD) No. 1713 of 2023

and

W.M.P.(MD) No. 1539 of 2023

1.D.Balasubramanian @ M.D.Balasubramanian

2.D.Lakshmanan

3.J.Madhan

... Petitioners

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department (HR&CE),
Nungambakkam, Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department (HR&CE),
Madurai.

3.The Executive Officer / Deputy Commissioner,
A/M. Meenakshi Sundareswarar Temple,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the Third Respondent in Na.Ka.No.8439/2022/E6, dated



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05.01.2023 and quash the same as ultra virus.

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For Petitioners : Mr. S.Madhavan
For Respondents : Mr. Veerakathiravan
Assisted by
Mr. P.Subbaraj
Special Government Pleader

ORDER

Heard Mr. S.Madhavan, Learned Counsel for the Petitioners and Mr. Veerakathiravan, Learned Counsel for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice in Na. Ka. No. 8439/2022/E6, dated 05.01.2023 issued by the Third Respondent calling upon the Petitioners to vacate from the property occupied by them, which belongs to the Temple of the Third Respondent within a period of 15 days, failing which the legal action would be taken for their eviction therefrom.



3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in ***Union of India -vs- Kunisetty Satyanarayana*** [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special Director -vs- Mohd. Ghulam Ghouse** (AIR 2004 SC 1467), **Ulagappa -vs- Divisional Commissioner, Mysore** [2001(10) SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987 SC 943) etc.*

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not



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give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it



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is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioners from raising the contentions in this Writ Petition in the reply to be submitted to the Third Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of the matter.

4. In such circumstances, Learned Counsel for the Petitioners seeks permission of the Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure and he has made an endorsement to that effect in the court record.

In view of the same, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.



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Index : Yes/No

Note: Issue order copy by 11.05.2023.

TO:

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department (HR&CE),
Nungambakkam, Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department (HR&CE),
Madurai.
- 3.The Executive Officer / Deputy Commissioner,
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P.D.AUDIKESAVALU,J.

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