



W.P. (MD) No. 2438 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 2438 of 2021

and

W.M.P. (MD) No.2012 of 2021

SP.Nachiappan

... Petitioner

Vs.

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Board (HR&CE),
Paramakudi, Ramnad District.

2. Executive Officer,
Arulmigu Muthumariamman Thirukoil,
Meenakshipuram, Karaikudi Taluk,
Sivaganga District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st Respondent dated 22.01.2021 (received on 01.02.2021) in Se.Mu.Na.Ka.No.245/2021/A4 and quash the same and consequently restraining the respondents herein from interfering with the petitioner's management and peaceful administration of Sree Lakshmi Sree Kuberar Thirukoil, Thiruveesar Nagar, Pillaiyarpatti, Tirupattur Taluk, Sivagangai District.



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W.P. (MD) No. 2438 of 2021

For Petitioner : Mr. R.Sundar Srinivasan
For Respondents : Mr. P.Subbaraj
Special Government Pleader for R1

Dr. C.Guhaseelarupan for R2

ORDER

Heard Mr. R.Sundar Srinivasan, Learned Counsel for the Petitioner, Mr. P.Subbaraj, Learned Special Government Pleader, who takes notice for the First Respondent and Mr. C.Guhaseelarupan, Learned Counsel, who takes notice for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Order in Se. Mu. Na. Ka. No.245/2021/A4 dated 22.01.2021 passed by the First Respondent appointing Fit Person for the Temple of the Second Respondent.

3. The pivotal attack on the impugned order by the Petitioner, who claims to have donated land for constructing the Temple of the Second Respondent, is that before the passing of the impugned order, neither any notice nor any opportunity of personal hearing has been afforded by the First Respondent.



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4. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken as held by the Hon'ble Supreme Court of India in *State of Orissa -vs- Binapani Dei* (AIR 1967 SC 1269). There is nothing to show either in the impugned order or in the Counter-Affidavit dated 18.02.2021 filed by the First Respondent Respondent that before passing the impugned order appointing Fit Person for the Temple of the Second Respondent, any show cause notice has been issued to the to the Petitioner and the other persons concerned calling for explanation from them with supporting materials in that regard. Such incurable flaw in decision making by the First Respondent is in violation of the principles of natural justice and would vitiate the entire proceedings. In that view of the mater, the impugned Order in Se. Mu. Na. Ka. No. 245/2021/A4 passed by the First Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. If the concerned authorities intend to appoint any Fit Person to the



W.P. (MD) No. 2438 of 2021

Temple of the Second Respondent in future, it shall be incumbent upon them to issue show cause notice to the Petitioner and other persons concerned with supporting materials and after affording full opportunity of personal hearing to them and considering each of the objections raised, a reasoned order shall be passed on merits and in accordance with law for the prescribed procedure in consonance with the principles of natural justice and the decision taken shall be communicated to the concerned persons under written acknowledgment.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

05.01.2023

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NCC : Yes/No

Index : Yes/No

Note: Issue order copy by 10.01.2023.



W.P. (MD) No. 2438 of 2021

To

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1. The Assistant Commissioner,
Hindu Religious and Charitable
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2. Executive Officer,
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W.P. (MD) No. 2438 of 2021

P.D.AUDIKESAVALU,J.

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W.P. (MD) No. 2438 of 2021

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