



W.P. (MD) No. 7380 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.01.2023

CORAM

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

W.P.(MD) No. 7380 of 2020

and

W.M.P. (MD) Nos. 6827 and 6828 of 2020

Soma. Somasundaram
Hereditary Trustee,
Sri Sundaraswamigal Athishtanam,
Arimalam, Thirumayam Taluk,
Pudukottai District.

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Trichy.
- 3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Pudukottai.
- 4.The Executive Officer,
Arulmighu Muthumariamman Temple,
Konnaiyur.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, for issue of



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Writ of Certiorari, calling for the records relating to the impugned proceedings in Se.Mu.Na.Ka.No.58554/2008/L5, dated 28.03.2010 issued by the 1st respondent and quash the same as illegal.

For Petitioner : Mr. V.R.Shanmuganathan
for Mr.S.Manikandan
For Respondents : Mr. P.Subbaraj
Special Government Pleader

ORDER

Heard Mr. V.R.Shanmuganathan, Learned Counsel for the Petitioner and Mr. P.Subbaraj, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in Se.Mu.Na.Ka.No. 58554/2008/L5 dated 28.03.2010 issued by the First Respondent appointing the Executive Officer of the Temple of the Fourth Respondent in the exercise of the powers under Section 45 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short).



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3. It is the contention of the Petitioner, who has been treated as the hereditary trustee of the Temple of the Fourth Respondent by Proceedings No. 152/2018/Aa4 dated 30.10.2018 passed by the First Respondent, that the continuance of the Fourth Respondent as the Executive Officer of the Temple of the Fourth Respondent 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.”



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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 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 of the Fourth Respondent 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 of the Fourth Respondent 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 of the Fourth Respondent shall cease to be in force with immediate effect from the date of receipt of the copy of this order by the Fourth 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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04.01.2023

sj

NCC : Yes/No

Index : Yes/No

Note: Issue copy of the order by 25.01.2023

To

- 1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Trichy.
- 3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
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P.D. AUDIKESAVALU, J.

sj

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Dated : 04.01.2023