



W.P.(MD) No.8829 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.8829 of 2023

Soma Sundaram

.. Petitioner

Vs.

The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Department,
Sivagangai District.

.. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent dated 16.11.2022 in proceedings A.THE.MU.No.3701/2022/E1 quash the same, as the same is arbitrary, ultra vires, in excess of powers and consequently direct the respondent to number the original application presented by the petitioner under section 64(5) of Act 22/1959 in respect of Arulmighu Aathi Korakkanatha Samy Temple situated at Thiruppuvanam, Manamadurai Taluk, Sivagangai District.

For Petitioner : Mr.R.G.Shankar Ganesh



W.P.(MD) No.8829 of 2023

For Respondent : Mr.P.Subbaraj
Special Government Pleader

ORDER

The petitioner has filed this writ petition to issue a Certiorarified Mandamus to quash the proceedings of the respondent dated 16.11.2022, since the same is ultra vires and arbitrary and direct the respondent to number the original application presented under Section 64(5) of Act 22 of 1959 in respect of Arulmighu Aathi Korakkanatha Samy Temple, Thiruppuvanam, Manamadurai Taluk, Sivagangai District.

2. The short issue, which is placed for consideration of this Court is that the petitioner herein had filed an application seeking modification of the scheme under Section 64(5) of Act 22 of 1959. Without taking the above application on file, the respondent appears to have passed an order returning the application stating that the request to include persons belonging to the Ayira Vysya community in other districts was not maintainable, since they will not be able to participate in the administration of the temple and that there was no necessity to modify



W.P.(MD) No.8829 of 2023

the scheme. Therefore, while returning the application, the respondent has practically passed orders on merits. Challenging the same, the present writ petition has been filed.

3. Heard the learned counsel for the parties and perused the records.

4. The respondent herein ought to have taken the application on file and passed orders after hearing the parties on merits. The respondent cannot refuse to take the application filed under Section 64(5) of Act 22 of 1959 to his file. Therefore, this Writ Petition is allowed, the order dated 16.11.2022 is set aside and the matter is remitted back to the respondent to take on file the application and pass orders on merits, after hearing the parties within a period of two weeks from the date of receipt of a copy of this order. No costs.

19.04.2023

NCC : Yes/No
Index : Yes/No
abr



WEB COPY



W.P.(MD) No.8829 of 2023

P.T.ASHA, J.

abr

To

The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Department,
Sivagangai District.

W.P.(MD) No.8829 of 2023

Dated: 19.04.2023