



W.P. (MD) No. 12631 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 12631 of 2021

and

W.M.P. (MD) No. 9857 of 2021

M.Sorimuthu

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Tuticorin.

3.S.Velayutham

4.A.Sorimuthu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of CERTIORARI, calling for the records relating to the impugned proceedings in Ni.Mu.No.050475/2020/E2, dated 14.06.2021 issued by the 1st respondent and the Impugned Proceedings in Na.Ka.No.



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2646/2019-1/A1, dated 06.07.2021 issued by the 2nd respondent herein and quash the same as illegal.

For Petitioner : Mr. V.R.Shanmuganathan
For Respondents : Mr. P.Subbaraj (for R1 & R2)
Special Government Pleader
Mr. P.Banu Prasath (for R3)
Mr. R.J.Karthick (for R4)

ORDER

Heard Mr. V.R.Shanmuganathan, Learned Counsel for the Petitioner, Mr. P.Subbaraj, Learned Special Government Pleader, for the First and Second Respondents, Mr. P.Banu Prasath, Learned Counsel for the Third Respondent and Mr. R.J.Karthick, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent by Proceedings in Ni. Mu. No. 050475/2020/E2



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dated 14.06.2021 has informed that Arulmighu Sri Maruthamaram Sudalaimadasamy Thirukovil in Tuticorin District (hereinafter referred to as 'the Temple' for short) has been brought under the purview of the Tamil Nadu Hindu Religious and Charitable Endowments Department in public and administrative interests and the Temple has been entered in the list of Temples at Sl. No. 2 in Page No. 405 on the recommendation of the Second Respondent, who has been directed to take further action for including the said Temple under the Integrated Temple Management System Code. Thereafter, by another Proceedings in Na. Ka. No. 2646/2019-1/A1 dated 06.07.2021, the Second Respondent in the exercise of powers under Section 49(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short), has called for objections, if any, to be submitted within 15 days, for appointment of Fit Person till Trustees are regularly appointed for the said Temple. The Writ Petition challenges the said proceedings of the First and Second Respondents.

3. Before proceeding further, it must be pointed out that Section 1(3) of the Act mandates that it applies to all Hindu Public Religious Institutions and Endowments, which would necessarily include the said Temple and as such,



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in the absence of any material to demonstrate that the said Temple does not fall under the category of a 'Hindu Public Religious Institution', the Petitioner cannot have any grievance for including the said Temple under the Integrated Temple Management System Code as directed by the First Respondent in the Proceedings in Ni. Mu. No. 050475/2020/E2 dated 14.06.2021.

4. Insofar as the Proceedings in Na. Ka. No. 2646/2019-1/A1 dated 06.07.2021 of the Second Respondent is concerned, it is evidently a show cause notice calling upon the Petitioner to submit objections for appointment of a Fit Person till Trustees are regularly appointed for the said Temple. It has been consistently held as 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***



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-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 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*



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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 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 Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Second Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere with the impugned order of the Second Respondent at this pre-mature stage of the matter.



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5. In such circumstances, without expressing any view on the merits of the controversy involved in the matter, the Writ Petition is disposed on the following terms:-

- (i) it shall be incumbent upon the Petitioner to submit his explanation to the show cause notice in Proceedings in Na. Ka. No. 2646/2019-1/A1 dated 06.07.2021 issued by the Second Respondent, which is impugned in the Writ Petition, if not done already, to the concerned authority by 28.02.2023;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (iii) if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law;
- (iv) consequently, the connected Miscellaneous Petition is closed; and



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(v) there shall be no order as to costs.

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Index : Yes/No

NCC : Yes/No

Note: Issue order copy by 20.01.2023.

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Tuticorin.



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P.D.AUDIKESSAVALU, J.

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