



W.P.(MD).No.16589 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16589 of 2023

and

W.M.P.(MD)Nos.13873 and 14857 of 2023

Rameswaram Ramanathaswami Thirukovil,
Seerpatham Thangigal Munnetra Sangam,
represented by its President,
K.Muniysamy, Sambai Village,
Rameshwaram,
Ramanathapuram District.

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

2.The Joint Commissioner/ Executive Officer,
Arulmighu Ramanatha Swami Thirukovil,
Rameswaram, Ramanathapuram District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records of the impugned order passed by the 2nd respondent in Na.Ka.No. 233/2020/A9 dated 03.07.2023 and to quash the same as illegal and consequently, to direct the respondents to enhance the wages for the petitioner



W.P.(MD).No.16589 of 2023

association for carrying the details of Arulmighu Ramanatha Swamy Temple, Rameswaram, within a time frame fixed by this Court.

For Petitioner : Mr.J.Karthick
For R-1 : Mr.S.P.Maharajan
Special Government Pleader
For R2 : Mr.S.Ramesh

ORDER

This writ petition is filed for issuance of a writ of ***Certiorarified Mandamus***, to call for the records of the impugned order passed by the 2nd respondent, dated 03.07.2023 and to quash the same as illegal and consequently, to direct the respondents to enhance the wages for the petitioner association for carrying the details of Arulmighu Ramanatha Swamy Temple, Rameswaram, within a time frame fixed by this Court.

2. The President of "Rameswaram Ramanathaswami Thirukovil Thangigal Munnetra Seerpatham Thangigal Munnetra Sangam". The association was registered under Act 27 of 1975 bearing registration number 14 of 1990. The temple celebrates several festivals wherein the deity is taken out of the temple and comes around the four car tracks. The petitioner association members belong to Mangada Village, Sambai Village, Kentha



W.P.(MD).No.16589 of 2023

Mathanaparvatham and Sudukattampatti Village, for generations together right from time immemorial, carry the deity during the festival period around the four car tracks and other places as per the direction of the 2nd respondent herein. Originally there were 86 members involved in carrying the deity then it reduced to 40. Pursuant to the communication given by the 2nd respondent in ROC No. 2979/99/A5 dated 03.04.2001, on the basis of the request made by the Association, additional 8 members had been permanently added for carrying the deity. Thereby, the approved strength increased from 40 to 48. In addition to the wages given by the 2nd respondent, the members had been provided with rice. The said wages were increased periodically from Rs.45 in the year 1996 to Rs.480/- in the year 2022-2023.

3. The contention of the petitioner is that for every year agreement is entered between the association and the 2nd respondent for fixing the wages for a period of 3 years. After the expiry of 3 years, the petitioner's association would request for a fresh agreement. The last agreement was executed on 08.10.2020 fixing the wages as Rs.480/- for the period from 01.03.2020 to 28.02.2023. On expiry of such agreement in the first week of March 2023, the petitioner Association requested the 2nd respondent in person to execute the



W.P.(MD).No.16589 of 2023

WEB COPY

agreement for the subsequent 3 years period with enhanced wages. Since the 2nd respondent was not considering, the petitioner submitted a written representation, dated 23.03.2023, then also 2nd respondent has not responded. Again, the petitioner submitted the said representation through registered post. On receipt of the same, the 2nd respondent threatened the members to accept Rs. 480/- as wages for the subsequent year. The petitioner Association requested to increase the wages to Rs.700/-. The 2nd respondent rejected to enhance the wages through the impugned order. In the impugned order the 2nd respondent also threatened the members of the petitioner association to accept Rs.480/- as wages or else they would be usurped from the said service. Aggrieved over the same, the present writ petition is filed.

4. This writ petition came up for admission before this Court on 10.07.2023 and this Court issued an interim order directed the respondents to pay the undisputed wages for the period from 01.03.2020 until further orders. As far as the enhanced wages is concerned, this Court directed the respondents to consider the petitioner's request atleast to increase Rs.20/- so that the association members would be getting Rs.500/-. Also, this Court directed the respondents to file counter affidavit and the case was posted for hearing on



W.P.(MD).No.16589 of 2023

24.07.2023, 31.07.2023, 04.08.2023, 09.08.2023 and 16.08.2023. The learned Counsels appearing for the respondents took repeated adjournments to take instructions from the respondents and to file counter. Finally, the respondent filed counter along with vacate stay application.

5. The 2nd respondent has stated in the counter affidavit that the Association cannot represent the grievance of individual. The writ petition is filed to enhance the wage. The petitioner members are not only paid wages in terms of money but also in terms of rice for the persons who would carry the Chapparam, thereby the petitioner had suppressed the facts. The contention of the petitioner that they are Seerpatham Thangigals who will carry the chapparam and the deity is false. The deity will be carried in four-wheel Chagadai (trailer) and Seerpatham thangigals are not carrying the Chapparam as well as the deity. Infact the safety and custody of the deity and the chapparam vests only with the Upakainkariyam, Kainkariyam, Sabiyar and Gurukal. The Seerpatham Thangigals are not fixed with any responsibility regarding the ultimate safety of the urchava deity. As per the long custom, practice and usage, the said four persons alone would carry the deity and fix the same in the basic Chapparam and the basic Chapparam would be placed and



W.P.(MD).No.16589 of 2023

WEB COPY

towed in the four-wheel trailer in the four car streets. The averments that the petitioner as if their physical effort is more and hence, they require wage enhancement is not true. Moreover, there is no legal bar to employ other persons in doing the job of lifting the Chappram and placing on the four-wheel trailer (Sagadai). The Seerpatham Thangigals are not regular employees and their service is not required on day-to-day basis. Only during festival time their services are required. During the festival times, they cause trouble. There is no compulsion on the respondents to employ only the members of the petitioner sangam alone. The petitioner sangam cannot compel the respondents to execute any document to their terms. The petitioner sangam members are only contractual employees. They have not been classified as employees of the temple in any class framed under the Tamil Nadu Hindu Religious Institutions Employees (Conditions of service) Rules, 2020. Admittedly, the alleged employees are non-seasonal and irregular, and casual employees, truly based on the contract. The petitioner cannot compel the respondents either to enter into a fresh contract or to compel to specifically perform the contract. The respondents have not caused any breach and the remedy available for the petitioner is only before civil forum and they cannot invoke the jurisdiction of the writ Court. The allegation that the respondents threatened the petitioner is



W.P.(MD).No.16589 of 2023

false and the same is denied. The respondents have not kept any wages pending for the past period. Only in the interest of the temple and the general public devotees, the impugned order has been passed. Therefore, the 2nd respondent prayed to dismiss the writ petition.

6.Heard Mr.J.Karthick, learned Counsel appearing for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader appearing for the 1st respondent and Mr.S.Ramesh, learned Counsel appearing for the 2nd respondent and perused the records.

7.The contention of the respondents is that the petitioner Association members are not engaged regularly and they are not regular employees of the temple. This fact is admitted by the petitioner as well. The petitioner is not claiming that they are regular employees of the temple. They will be engaged during the festival time only and in paragraph 4 of the affidavit it has been specifically stated that the Association members who belong some four villages are carrying the deity during the festival period and their service would be engaged only during the festival period. When such practice is carried out by the temple administration, the temple is supposed to follow the



W.P.(MD).No.16589 of 2023

same without deviating. The temple administration cannot function as corporate office. The temple ought to be managed based on the custom, practice, emotions, sentiments and these are not practiced in corporate managements. The temple administration is assuming itself to be a corporate body and is denying such practice which is being followed all these years cannot be accepted.

8. It is an admitted fact that the petitioner association members are engaged only on contract basis and they are not regular employees and they are engaged during festivals alone. While that being so, there is no monthly commitment to the temple, it only during festival times the petitioner members are paid for doing the service of Seerpatham Thangigals.

9. The respondents submitted that the petitioner would be paid not only money, they would be granted rice also which is not stated by the petitioner. On perusing the affidavit, the petitioner had stated that the respondents would pay rice along with wages in paragraph 4 and hence the allegations that the petitioners have not come with clean hands is not true.



W.P.(MD).No.16589 of 2023

WEB COPY

10. The petitioner further submitted that every three years the same would be increased and had furnished a table and the respondents have not denied the fact of periodical increase in their counter. The respondents had stated that the petitioner cannot demand to increase the amount, but has not denied the increase granted every three years. It is seen from the affidavit that earlier the respondents have granted such increase once in three years and the year wise enhancement is as follows:

YEAR	WAGES
1996	Rs.45
1998	Rs. 60
2000	Rs.75
2004	Rs.90
2008	Rs.115
2011	Rs.160
2014	Rs. 240
2017	Rs.360
2020	Rs.480

When the respondents had followed to increase once in three years then the respondents ought to consider to increase which is due this year. The petitioner is seeking to increase to Rs.700/-. But the Learned Counsel appearing for the petitioner submitted if the respondents increase to Rs.550/- that would suffice.



W.P.(MD).No.16589 of 2023

WEB COPY

11. Therefore, this Court is inclined to quash the impugned order and accordingly the same is quashed. The 2nd respondent is directed to grant increase of Rs.550/- for the next three years and the 2nd respondent shall continue this practice for the coming years as well. The 2nd respondent is directed to follow this custom without deviating. The 2nd respondent shall comply with this order within a period of one week from the date of receipt of a copy of this order.

12. With the above said observation, the writ petition is allowed.
No costs. Consequently, connected miscellaneous petitions are closed.

16.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Tmg



W.P.(MD).No.16589 of 2023

To

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.
2. The Joint Commissioner/ Executive Officer,
Arulmighu Ramanatha Swami Thirukovil,
Rameswaram, Ramanathapuram District.



WEB COPY



W.P.(MD).No.16589 of 2023

S.SRIMATHY, J.

Tmg

W.P.(MD).No.16589 of 2023

16.08.2023