



W.P. (MD) No. 17803 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.AUDIKEAVALU

W.P. (MD) No. 17803 of 2021

and

W.M.P. (MD) Nos. 14679 and 14680 of 2021

Sri Pethanasamy Sri Chinnakaruppasamy Temple Trust,
Represented by its Managing Trustee,
M.Alagumalai

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai – 600 009.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Theni.
- 4.The Executive Officer,
Arulmigu Sundaramahalinga Swamy Temple,
Sathuragiri,
Peraiyur Taluk,
Madurai District.
- 5.K.Thangam Venkatesh

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6.Murugesan

... Respondents

(R6 is impleaded vide Order of this Court dated 04.01.2023 in W.M.P. (MD) No.8701 of 2022.)

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 order dated 10.06.2021 in Sey.Mu.Na.Ka.No.133/2021 A2 passed by the 3rd respondent and the consequential impugned order dated 14.09.2021 passed by the fourth respondent and quash the same.

For Petitioner : Mr. T.R.Jeyapalam

For Respondents : Mr. T.Villavankothai (R1 to R3)
Additional Government Pleader

Mr. C.Guhaseelarupan (R4)

Mr. RM.Arun Swaminathan (R6)

ORDER

Heard Mr. T.R.Jeyapalam, Learned Counsel for the Petitioner, Mr. T.Villavankothai, Learned Additional Government Pleader, for the First to Third Respondents, Mr. C.Guhaseelarupan, Learned Counsel for the Fourth Respondent and Mr. RM.Arun Swaminathan, Learned Counsel for the Sixth Respondent and perused the materials placed on record, apart from the



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pleadings of the parties.

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2. The Writ Petition challenges the Order in Se. Mu. Na. Ka. No. 133/2021 A2 dated 10.06.2021 passed by the Third Respondent appointing Fit Person for the Temple of the Fourth Respondent and the consequential order dated 14.09.2021 passed by the Fourth Respondent directing the Administration to hand over charge to him

3. The pivotal attack on the impugned order by the Petitioner, who claims to be a Managing Trustee of the Temple of the Fourth Respondent, is that before the passing of the impugned order, neither any notice nor any opportunity of personal hearing has been afforded by the Third Respondent.

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

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1269). There is nothing to show either in the impugned order that before passing the impugned order appointing Fit Person for the Temple of the Fourth 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 Third 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. 133/ 2021 A2 passed by the Third Respondent and consequential order dated 14.09.2021 passed by the Fourth Respondent are 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 Temple of the Fourth 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.



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In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, connected Miscellaneous Petitions are closed. No costs.

04.01.2023

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NCC : Yes/No

Index : Yes/No

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Note: Issue order copy by 03.03.2023.

To

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai – 600 009.

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P.D.AUDIKESAVALU,J.

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