



W.P.(MD).No.18490 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.18490 of 2023
and
W.M.P(MD).No.15328 of 2023**

Arulmigu Mandhiramoorthy Vinayagar Temple,
Represented by its Managing Trustee,
RM.Annamalai

... Petitioner

Vs.

1.The Joint Commissioner,
HR and CE Department,
Sivagangai.

2.The Assistant Commissioner,
HR and CE Department,
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to dispose the long pending application filed by the petitioner in O.A.No.3 of 1997 within time stipulated by this Court.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader.



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ORDER

This Writ Petition is filed for Mandamus, directing the first respondent to dispose the long pending application filed by the petitioner in O.A.No.3 of 1997.

2. When the matter is taken up for hearing, the learned Special Government Pleader submitted that the aforesaid O.A was already dismissed for default on 25.10.2012 itself. However, the learned counsel for the petitioner submitted that the order was not communicated to the petitioner. The petitioner seeks liberty to restore the same, since the petition was dismissed for default. The learned counsel appearing for the petitioner further submitted that they received the summons on 05.09.2012 which had directed the petitioner to appear before the Joint Commissioner on 15.09.2012. Subsequently, there was Advocates boycott and the Joint Commissioner has posted the case on very next day itself. But on that day, the petitioner as well as the learned counsel for the petitioner did not appear. Therefore, the Joint Commissioner dismissed the case for default. Even though a copy of the order dated 25.10.2012 in O.A.No. 3 of 1997, is marked to the petitioner through their counsel, the petitioner submitted that the said order copy was not served on him.



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3. Be that as it may, the petitioner is directed to submit an application before the authorities to set aside the order dated 25.10.2012 in O.A.No.3 of 1997, which was passed as “dismissed for default”. The Joint Commissioner without insisting on delay and limitation shall consider the case on merits. The petitioner is also at liberty to file an interim petition and the Joint Commissioner shall consider the same and pass order by taking all facts and circumstances of the case.

4. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

Nsr

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