



W.P.(MD).No.18915 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.18915 of 2023
and
W.M.P.(MD).No.15716 of 2023**

Ilamparithi

... Petitioner

Vs.

1.The Joint Commissioner,
Office of HR & CE,
Dindigul,
Dindigul District.

2.Manthiswaran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned notice in O.A.31/2023/B3 dated 26.07.2023 issued by the first respondent and quash the same in accordance with law.

For Petitioner : Mr.D.Selvanayagam

For R-1 : Mr.S.P.Maharajan,
Special Government Pleader.

For R-2 : Mr.D.Venkatesh



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ORDER

This Writ Petition is filed to quash the order dated 26.07.2023 issued by the first respondent and quash the same in accordance with law.

2. At the time of admission, this Court has granted interim stay for the application filed by the second respondent namely Manthiswaran. The second respondent has filed a counter, wherein it is stated that the petitioner has obtained an order dated 19.05.2022 in O.A.No.14 of 2021 which is obtained by fraud and behind the back. Further it is submitted that a scheme was framed in O.A.No.17 of 1986 dated 04.11.1986 and based on the scheme Subramanian, Goundappan Gounder, Palanisami and Thirumalaisamy were allowed to act as hereditary poojari per week on rotation basis. After the demise of Subramanian and Goundappan Gounder, their respective right to act as poojari devolve upon their sons Prakash and Jeyaraman respectively. In respect of the right to act as poojari is the case of Palanisami, his son Chelladurai had submitted an application under section 63(e) and the same is pending. The poojari rights of Thirumalaisamy was devolved upon his son Palanisamy and after the demise of the said Palanisamy his son namely the Manthiswaran, the 2nd respondent



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herein is claiming poojari rights. But the petitioner Ilamparithi has filed O.A.No.21 of 2021 claiming the poojari rights of Thirumalaisamy family. The petitioner is claiming as if the said Palanisamy son of Thirumalaisamy is his paternal uncle and he died intestate leaving the Manthiswaran and Manimegalai as legal heirs. And the Manthiswaran's mother and the Manthiswaran had given no objection dated 28.08.2019 to appoint the writ petitioner as hereditary poojari. In the said no objection document it was shown as if the Manthiswaran's mother had affixed thumb impression, but she never put thumb impression but she is in the habit of affixing signature. Moreover, on the date of when the no objection was obtained from Manthiswaran he was not in India but was in Netherlands. While the said O.A.No.14 of 2021 was heard, the Manthiswaran's mother was impleaded as party but subsequently exonerated and the Manthiswaran was not impleaded as party. In such circumstances, the said Manthiswaran has filed the present application in O.A.No.31 of 2023 claiming hereditary right to act as poosari in the place of the Palanisamy son of Thirumalaisamy. The present writ petition is filed challenging the summons. Since the alleged consent letter is fraud and bogus, the order passed in O.A.No. 14 of 2021 is illegal. Therefore the respondent prayed to dismiss the writ petition.



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3. On perusing the impugned notice, it is seen that the second respondent is seeking hereditary rights. If the petitioner and the second respondent along with other claimants have filed their objections and if the authority has heard all the parties, the issue shall be sorted out. Therefore, this Court is of the considered opinion that the notice need not be stayed, hence the interim stay granted is vacated. The first respondent is directed to conduct an enquiry after granting personal hearing to the petitioner, second respondent and any other rival claimants. After hearing the objections, the first respondent shall pass orders. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

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

26.09.2023

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



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To
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The Joint Commissioner,
Office of HR & CE,
Dindigul,
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S.SRIMATHY, J.

Nsr

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