WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 19071 of 2015
and
M.P. (MD) Nos. 1 and 2 of 2015

A.Maruthai ... Petitioner

Vs.

1. The Joint Commissioner,
   Hindu Religious and Charitable
   Endowment Department,
   Trichy-6.

2. The Assistant Commissioner,
   HR & CE Department, Trichy-6.

3. The Executive Officer,
   Arulmigu Venanarayana Perumal Temple,
   Thirunayanapuram, Thottiyam Taluk,
   Trichy District.

4. Venkatachalam.
   (R4 is impleaded vide Court Order dated
   05.01.2023 in W.M.P. (MD) No. 1390/2016) ...Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to

https://www.mhc.tn.gov.in/judis

WEB COPY

issue a writ of Certiorari, calling for the records relating to the proceedings of the impugned order dated 08.10.2015 on the file of the 3rd Respondent in so far as the taking charge of the Arulmigu Kokkuvetti Karuppannasamy Temple is concerned and quash the same.

For Petitioner	:	Mr. R.Maheswaran
For Respondents	:	Mr. P.Subbaraj, Special Government Pleader for R1 to R3 Mr. R.M.Sivakumar for R4

O R D E R

Heard Mr. R.Maheswaran, Learned Counsel for the Petitioner and Mr. P.Subbaraj, Learned Special Government Pleader who takes notice for the First to Third Respondents and Mr. R.M.Sivakumar, Learned Counsel for the Fourth Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. The Second Respondent by Proceedings in Se. Mu. Na. Ka. No. 2709/10/A8 dated 08.01.2014 had appointed the Third Respondent as Fit Person of Arulmigu Kokkuvetti Karuppannasamy Temple (hereinafter

https://www.mhc.tn.gov.in/judis

WEB COPY

referred to as 'the Temple' for short). The Petitioner claims to be the Hereditary Trustee of the Temple and has made an application in O.A. No. 13 of 2014 before the First Respondent under Section 63(b) of the Tamil Nadu High Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short) to declare him as Hereditary Trustee of the Temple, which is said to be pending. While the matters stand as narrated supra, in furtherance to the aforesaid order in Se. Mu. Na. Ka. No. 2709/10/A8 dated 08.01.2014 passed by the Second Respondent, the Third Respondent by the Proceedings dated 08.10.2015 has called upon the Petitioner to hand over charge of the Temple, which is assailed in this Writ Petition.

3. The Fourth Respondent, who has been impleaded by order dated 05.01.2023 in W.M.P. (MD) No. 1390 of 2016, contends that an earlier application in O.A. No. 4 of 2000 filed by the Petitioner to declare him as Hereditary Trustee has been dismissed by the First Respondent after holding a detailed enquiry in that regard, which has been confirmed in appeal in A.P. No. 79 of 2009 by the Commissioner, Hindu Religious and Charitable Endowments Department, but the Petitioner has suppressed that material fact in the Writ Petition. It is further stated that the Fourth Respondent has also

https://www.mhc.tn.gov.in/judis

WEB COPY

preferred an application in O.A. No. 8 of 2014 to declare him as Hereditary Trustee of the Temple under Section 63(b) of the Act, which is said to be pending before the First Respondent.

4. It is brought to notice that the order dated 16.10.2015 passed by the Court, at the time of admission, had directed the parties to maintain *status quo*, which continues to be in force as on date.

5. The pivotal attack on the impugned order by the Petitioner is that before passing the order in Se. Mu. Na. Ka. No. 2709/10/A8 dated 08.01.2014 passed by the Second Respondent and the consequential order dated 08.10.2015 by the Third Respondent, neither any notice nor any opportunity of personal hearing has been afforded by the Second and Third Respondents respectively.

6. 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

https://www.mhc.tn.gov.in/judis

WEB COPY

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 1269). There is nothing to show either in the impugned order that before passing the impugned order appointing Fit Person for the Temple, 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 Second and Third Respondents is in violation of the principles of natural justice and would vitiate the entire proceedings. In that view of the mater, the impugned Orders in Se. Mu. Na. Ka. No. 2709/10/A8 dated 08.01.2014 and dated 08.10.2015 passed by the Second and Third Respondents 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 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 after considering each of the objections raised, a reasoned order shall be passed on merits and in accordance with law following the prescribed procedure in

https://www.mhc.tn.gov.in/judis

WEB COPY

consonance with the principles of natural justice and the decision taken shall be communicated to them under written acknowledgment.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

24.01.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
PKN

Note: Issue order copy by 23.06.2023.

To

1. The Joint Commissioner,
   Hindu Religious and Charitable
   Endowment Department,
   Trichy-6.

P.D.AUDIKESAVALU,J.

PKN

2. The Assistant Commissioner,
   HR & CE Department, Trichy-6.

https://www.mhc.tn.gov.in/judis

WEB COPY

W.P.(MD)No. 19071 of 2015

24.01.2023

https://www.mhc.tn.gov.in/judis