



W.P.No.4286 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.4286 of 2020
and WMP.No.5075 of 2020

A.Sakthivel

..... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam High Road,
Chennai – 34.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Paramakudi and TK,
Ramanathapuram District.

..... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records from the 1st respondent pertaining to the impugned order, Ni.Mu.No.39932/2018, E5, dated 31.07.2019 and quash the same and consequently to handover A/m.Thirukkaludaiyar Iyyanar Thirukkivil, Kovilangulam, Kamuthi Taluk and Ramanathapuram District to the petitioner's family.



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For Petitioner : Mr.P.Vijendran

For Respondents :Mr.S.Ravichandran
Additional Government Pleader
HR and CE

ORDER

The petitioner herein filed a writ petition challenging the order passed by the second respondent bringing the subject temple under the control of the Hindu Religious and Charitable Endowments Department.

2. According to the petitioner, the subject temple namely Arulmighu Thirukkaludaiyar Iyyanar Thirukkovil, Kovilangulam, Kamuthi Taluk and Ramanathapuram District was established by the petitioner's ancestors and the same has been maintained by the family members all along. Suddenly, the respondent has taken over the subject temple and notified the same under the provisions of Tamil Nadu Hindu Religious and Charitable Endowment Act. Thereafter, the petitioner obtained copy of the impugned order by applying under Right to Information Act and filed this writ petition.



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3. The learned counsel appearing for the petitioner submits that the respondents have not followed the procedure contemplated under Chapter VI of Tamil Nadu Hindu Religious and Charitable Endowments Act, especially Section 71, while passing the impugned order bringing the temple under the control of the respondent's department. The learned counsel for the petitioner further submits that the issuance of show cause notice under Section 71 of HR and CE Act is a pre-condition before notifying the temple.

4. The learned Additional Government Pleader appearing for the respondents would submit that Chapter VI and Section 71 of HR and CE Act is applicable only to notified religious institutions and not to the ordinary public temple.

5. The first respondent also filed counter stating that there is a complaint from one Pandian and Ramasamy stating that the funds of the temple were misappropriated by certain individuals. Based on the same, the



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Inspector of Aruppukottai was directed to conduct an enquiry and file a report. Based on the report submitted by the second respondent, the subject temple was brought under the control of the first respondent by impugned order dated 31.07.2019. Subsequently, a fit person was also appointed to the temple under Section 49(1) of HR and CE Act by order dated 07.08.2019.

6. The first respondent has passed impugned order treating the subject temple as a public temple. It is the specific case of the petitioner that the subject temple was established by his forefathers and the same is a private temple. Whether a temple is a private or public is a question which has to be decided in an application filed by petitioner under Section 63(a) of HR and CE Act, as held by Division Bench of this Court in A/M Sundaresa Gnaniar Koil Vs. Amirthammal reported in 2003(1) CTC Page 484. Further as rightly submitted by Additional Government Pleader appearing for the respondents, Chapter VI of HR and CE Act is applicable only to temples notified under Chapter VI. The subject temple is not notified under Chapter VI of HR and CE Act and the same is only brought under the administrative



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control of HR and CE Department. In such case, it is for the petitioner to file appropriate application before the Jurisdictional Joint Commissioner for determination of the character of the religious institution under Section 63(a) of HR and CE Act. If any such petition is filed by the petitioner, the same shall be considered and disposed in accordance with law by the Jurisdictional Joint Commissioner by affording reasonable opportunity to the petitioner. If it is established by the petitioner, subject temple is a private temple in enquiry before the Joint Commissioner, it is needless to say the subject temple shall be handed over to the person from whom it was taken over by the department.

7. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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S.SOUNTHAR, J.

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