



W.P. No.31221 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.31221 of 2014

and

M.P. No.1 of 2014

J.M. Sekar

President

Arulmighu Sri Muthumariamman

Devasthanas Sabha *

* Cause title amended vide Order
dated 28.01.2019, in W.M.P.
No.30913 of 2018

... Petitioner

Versus

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

2. The Assistant Commissioner,
H.R. & C.E. Department,
Nungambakkam High Road,
Nungambakkam,
Chennai – 34.

3. N. Jayaraman

4. The Executive Officer,
Arulmigu Selvavinayagar cum
Kodhandaramar Thirukoil,
West Tambaram,
Chennai – 600 04.

... Respondents



W.P. No.31221 of 2014

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order Se. Mu. Na.Ka. No.2302/2013/A1, dated 27.10.2014 passed by the 2nd respondent's herein and quash the same and consequently forbearing the respondents from in any way not to interfering with the petitioner's peaceful management of “Arulmighu Sri Muthumariamman Temple”.

For Petitioner	: Mrs.G. Devi for Mr.V. Venkatesan
For Respondents	: Mr. K. Karthikeyan, Govt. Advocate (HR & CE) for R1 & R2 Ms.G. Vaishali for Mr.K.V. Dhanapalan for R4 R3 – No appearance

ORDER

This writ petition has been filed to call for the records pertaining to the impugned order Se. Mu. Na.Ka. No.2302/2013/A1, dated 27.10.2014 passed by the 2nd respondent's and consequential direction to forbear the the respondents from in any way not to interfering with the petitioner's peaceful management of “Arulmighu Sri Muthumariamman Temple”.

2. It is averred that Arulmighu Sri Muthmariamman Temple situated at Bharathipuram, Chrompet, Chennai is a public temple. It is further stated that the petitioner is the Managing Trustee of the aforesaid temple.



W.P. No.31221 of 2014

While so, the 3rd respondent with an evil intention lodged an alleged complaint against the office bearers of the said temple before the 2nd respondent. Though show cause notice was issued and in turn, explanation was submitted by the petitioner on 13.10.2014, it is his grievance that without considering the said explanation, the impugned order, dated 27.10.2014 was passed by the 2nd respondent, thereby Fit Person / Thakkar was appointed. Aggrieved by the said appointment, this writ petition has been filed.

3. Learned counsel for the petitioner submitted that the petitioner and four others are non-hereditary trustees, who are all effectively managing the affairs of the temple and the donations collected were properly deposited in the bank account of the said temple. He further submitted that based on a false complaint lodged by the 3rd respondent, without application of mind, the 2nd respondent passed the impugned order, which is a mere violation of principles of natural justice. Further, he submitted that the Fit Person appointed under Section 49(1) of the HR & CE Act has also not assumed charge, till date and there is no proper handing over. In view of the above, he prays for quashment of the impugned Order, dated 27.10.2014 passed by the 2nd respondent as well as allowing of this writ petition.



W.P. No.31221 of 2014

4. Denying the aforesaid submissions, Mr.K. Karthikeyan, learned

Government Advocate (HR & CE) submitted his arguments based on the counter affidavit filed by the 2nd respondent that a complaint was received from the 3rd respondent with regard of mal-administration of the temple's funds and after conducting proper enquiry, the order, which is impugned herein was passed by the 2nd respondent. He further submitted that the 4th respondent is acting now as incharge of the temple. However, he submitted that the petitioner may be directed to file an appropriate application before the Joint Commissioner of H.R. & C.E. under Section 63B of the H.R. & C.E. Act, and on such filing, the same would be considered by the Joint Commissioner, within a time to be stipulated by this Court.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. Considering the facts and circumstances of the case, this Court without going into the merits of the case directs the petitioner to file application under Section 63B of the H.R. & C.E. Act for appointment of fit person for the aforesaid temple, before the Joint Commissioner, within a period of four weeks from the date of receipt of a copy of this order. If such an application is filed, the Joint Commissioner shall consider the same



W.P. No.31221 of 2014

and pass orders on merits and in accordance with law, as expeditiously as possible.

7. With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

10.09.2024

Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

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

2. The Assistant Commissioner,
H.R. & C.E. Department,
Nungambakkam High Road,
Nungambakkam,
Chennai – 34.

3. The Executive Officer,
Arulmigu Selvavinayagar cum
Kodhandaramar Thirukoil,
West Tambaram,
Chennai – 600 04.



WEB COPY



W.P. No.31221 of 2014

M.DHANDAPANI, J.

vsi2

W.P. No.31221 of 2014

10.09.2024