IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.06.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.27092 and W.M.P. No.31510 of 2018 and

W.P. No.13890 of 2024

P.K. Rajkumar Palaniyappan
Hereditary Trustee,
Sri Payaraneeswarar Swamy & Prasanna
Venkatesa Perumal Devasthanam,
Udayarpalayam, Ariyalur District,
Tamil Nadu. ..Petitioner
(In both Petition)

...Vs...

1. The Commissioner,
Hindu Religious Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034. Tamil Nadu.

2.The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Theppakulam street, Neelagirishwarar Thoppu,
Thiruvanaikkaval, Trichi- 620 005. Tamil Nadu.

3.The Assistant Commissioner
Hindu Religious Charitable Endowments Department,

Collector Office Campus,
Ariyalur Post & District. Tamil Nadu.

4.The Inspector
Hindu Religious Charitable Endowments Department,
Sannathi Street, Jeyankondam,Tamil Nadu.

5.The Executive Officer,
Arulmigu Egambareshwarar and Thandayuthapani Thirukovil,
Chettykulam, Alandure Taluk, Perambalur District.
Tamil Nadu. ....Respondents
(in W.P. No.27092 of 2018)

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy Division, Theppakulam Street,
Neelagirishwarar Thoppu, Thiruvanaikkaval, Trichy 620 005

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department, D
Cuddalore Division,
No.8 River Side Road,
Pudupalayam, Cuddalore -607 001

3. The Assistant Commissioner
Hindu Religious and Charitable Endowments Department,
228, 2nd floor, Collectorate Campus, Ariyalur- 621 704

4. The Inspector,
Hindu Religious and Charitable Endowments Department,
Sannathi street, Jeyankondam.

5. The Executive Officer
a/m. Aalanthuraiyar Kothudaramasamy Temple,
Ariyalur District. ....Respondents

(in W.P. No.13890 of 2018)

PRAYER in W.P. No.27092 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent Se.Mu.Na.Ka.No11913/2014/A3, dated 28.08.2018 and quash the same and permit the petitioner to continue as the Hereditary Trustee of Sri Payaraneeswarar Swamy and Prasanna Venkatesa Perumal temple and pass orders accordingly.

PRAYER in W.P. No.13890 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for entire records pertaining to order dated 8.05.2024 of the 2nd respondent made in Se.Mu. Na.Ka.No. 4284/ 2024/ A5 and quash the same and pass orders accordingly.

For petitioner : Mr. V. Srikanth

For Respondents : Mr.K. Karthikeyan for R1to R5
(Govt. Advocate)
(In both petitions)
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COMMON ORDER

These Writ petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent Se.Mu.Na.Ka.No11913/2014/A3, dated 28.08.2018 and quash the same and permit the petitioner to continue as the Hereditary Trustee of Sri Payaraneeswarar Swamy and Prasanna Venkatesa

Perumal temple and calling for records pertaining to order dated 08.05.2024 of the 2nd respondent made in Se.Mu. Na.Ka.No. 4284/ 2024/ A5 and quash the same and pass orders accordingly.

2. The case of the petitioner is that there is a temple dedicated to the worship of Lord Shiva and Lord Vishnu viz. Sri Payaraneeswarar Swamy & Prasanna Venkatesa Perumal Temple situate at Udayarpalayam Village, Ariyalur District. The above temple is a Public Religious Institution within the meaning of Section 6(18) and 6(20) of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959 (TN Act 22 of 1959). The office of the Trusteeship is Hereditary in nature within the petitioner family, accordingly, by virtue of the orders dated 27.5.1981 and 12.5.1997 made in O.A. No.89/1979, the office of the Trusteeship in the temple is declared as Hereditary one as contemplated under Section 6(11) and 63(b) of the Act, whereby the petitioner's father Mr. K.C. Periya Kulanthai Raja declared as hereditary Trustee. After the demise of petitioner's father, the petitioner succeeded as Hereditary Trustee vide proceedings of the 1st Respondent dated 26.7.2013 made in R.Dis. No. 10174/2012/B4 in terms of 54(1) of the Act. Earlier, the temple comes under supervisory jurisdiction of

the 1st respondent. While so, for administrative reasons, jurisdiction of the Joint Commissioner, Trichy, bifurcated into two division and at present, the subject temple comes under the supervisory jurisdiction of Joint Commissioner, Cuddalore, the 2nd respondent herein. Ever since his appointment, the petitioner has been discharging his duties as a responsible Hereditary Trustee without any blemish from any quarters. The administration of the temple have been lying with the family of the petitioner for centuries together, as they belong to Udayarpalayam Dynasty. The involvement of the petitioner's forefathers has been reflected in the various Tamil literatures particularly, in the popular book called "Nallurai Kovai" written by renowned author U.V.Swaminatha Iyer. The above history would also reveal that how the petitioner's family lived and worked for the welfare of the people and temple. While so, on 7.2.2018, the 1st Respondent has issued a show cause notice to the petitioner and raised 9 untenable allegations against him. Thereafter, the petitioner has given detailed submission for the above show cause notice on 12.2.2018. The petitioner never indulged in any malfeasance, misfeasance or misappropriations in the affairs of the temple. The petitioner inherits a laudable legacy and there is no need for the petitioner to plunder any money from the temple property. While so, the 1st Respondent without considering the petitioner's reply to the show cause notice and without without giving an opportunity to place evidence on his side, arbitrarily suspended the petitioner, vide order dated 28.8.2018 made In Se.Mu.Na.Ka.No.11913/2014/A3 under Section 53(2) of the Act and further, through the very same order, the Joint Commissioner has appointed an Executive Officer of A/m. Egambareshwarar & Thandayuthapani Temple situate at Perambalur as Fit Person of the temple by stating that an order dated 08.05.2024 made in Se.Mu.Na.Ka. No.4284/2024 has been passed by the 2nd Respondent in both petitions respectively. Being aggrieved by these orders, the present Writ Petitions have been filed by the petitioner seeking the relief as stated therein.

3. The learned counsel for the petitioner submits that an order of the Joint Commissioner in appointing the Fit Person is beyond the jurisdiction of the authority. Further, while Section 53(2) of the Act contemplates about final adjudication of the disciplinary proceedings, the Joint Commissioner has placed the petitioner under suspension in terms of Section 53(2) of the Act, along with the charge memo without affording

any opportunity to the petitioner and circumventing the procedures contemplated under Section 53(3) of the Act which is wholly illegal and violates all canons of justice. Apart from that, in terms of the disciplinary proceedings initiated under Section 53 of the Act, placing the hereditary Trustee under suspension and appointing a Fit Person could not be made by invoking the powers under Section 49 of the Act which confines the jurisdiction only to the Assistant Commissioner and in the petitioner's case, the said authority have no jurisdiction to appoint a Fit Person.

4.It has been further submitted by the learned counsel for the petitioner that as per Section 54 of the Act, on the suspension of the declared hereditary Trustee, the next in line of succession shall be considered for the appointment as a Fit Person under Section 54(3) of the Act or for the appointment as Hereditary Trustee in the temporary vacancy in terms of Section 54(2) of the Act. However, such appointments were neither considered nor made by the 1st respondent while appointing the Fit Person to the subject temple. Since the office of hereditary trusteeship in the above temple became vacant on the suspension of declared hereditary trustee, the next in line of succession in my family is entitled to be recorded either as a Temporary Hereditary Trustee or Fit Person to the office as per Section 54(2) or 54(3) of the Act pending enquiry of the disciplinary proceedings. As such, the appointment of the Executive Officer of A/m. Egambareshwarar & Thandayuthapani Temple is against the provisions of the Act and defeats the legislative intent of 54(2) and 54(3) of the Act.

5.The learned counsel for the petitioner further submits that the impugned order of the Joint Commissioner dated 28.8.2018 made in Se.Mu.Na.Ka. No.11913/2014/A3 is per se illegal, void and passed by the authority by arrogating to the jurisdiction which is not vested on it. Further, the allegations formed part of the charge memo are galvanized with false allegations. Apart from that, the allegations would not accuse the petitioner for any misappropriation or any maladministration. The utmost allegations would attract the negligent of duty of the petitioner which is false allegation. Furthermore, the discrepancies pointed in the charge memo have been now rectified. The jewels has been verified by the Jewel Verification Officer and accounts of the registers of the temple under Section 29 of the Act are properly maintained, the litigations were filed to restore the temple lands. Considering the rectification and discrepancies being sorted out, the

Joint Commissioner have also not further pursued the disciplinary proceedings. albeit the petitioner has given a detailed explanation dated 8.9.2018.

6.The learned counsel for the petitioner further submits that for the past six years, the Fit Person appointed by the HR & CE Department have also never took charge of the temple and the petitioner continued to hold the office as Hereditary Trustee and discharged his duties diligently. Further, the petitioner has also made reformative and proactive steps to rectify the discrepancy pointed out by the Joint Commissioner in the charge memo in the course of his office. At present, there is no subsisting allegations prevailing against the petitioner so as to keep disciplinary proceedings pending against him. In the meanwhile, as per the instruction, directions and orders of the authorities, various renovation works have been started by the petitioner for the welfare of the temple.

7.The learned counsel for the petitioner further submits that for the past six years, post suspension of the petitioner, considering his efforts and in due recognition, he has been recognized as Hereditary Trustees and permitted to act as Hereditary Trustee and the communications of the HR & CE officials would also communicated to the petitioner in the capacity of the Hereditary Trustee of the temple alone. When the matter stood thus, the Assistant Commissioner has issued a notice dated 14.4.2024 calling upon the petitioner to give certain explanations to the discrepancy made in the said letter. Even the allegations made in the notice of the Assistant Commissioner, is also rectified and it is more or less about the earlier charges framed by the disciplinary authority against the petitioner, he has given an explanation to the same vide representation dated 23.04.2024. Thereafter, there was no further notice or enquiry conducted by the Assistant Commissioner. On the other hand, the 2nd respondent has passed an order dated 08.05.2024 in Se.Mu.Na.Ka. No.4284/2024 whereby the 5th Respondent is now appointed as Fit Person of the temple for administration.

8.It has been further submitted by the learned counsel for the petitioner that the Joint Commissioner has erred in not considering the fact that, any appointment of Fit Person would result in civil consequences, as such appointment of Fit Person would not be made without giving due opportunity of hearing of the incumbent Trustee. Further, under the guise of the impugned order, on 17.05.2024, the 5th Respondent has tried to interfere with the administration and after hearing the explanation of the son of the Petitioner, the 5th Respondent went away from the above temple premises. However, in the subsequent days, the Petitioner apprehends that the 5th Respondent might again try to take over the administration of the temple under the guise of the impugned order. If the 5th Respondent succeeds in his endeavour would cause enormous prejudice and irreparable loss to the rights of the Petitioner and his family. Besides that, the system and practice followed in the temple for centuries together would be halted and altered. Besides that, the Petitioner and his family members would be subjected to scorn of society and ignominy of insinuation. Hence, the petitioner seeks relief as prayed for.

9. The learned counsel for the respondent submit that the petitioner has not done any welfare for the Devotees and Temple. Further, he has misappropriated the funds of the temple and not maintained the accounts of the temple. When the Officials of the HR&CE Department went for inspection, he did not co-operate with them which is illegal and unfair. Even though there is a direction to handover the duties of the hereditary

trustee to the Executive Officer, the petitioner did not comply the same and continues as hereditary trustee of the said temple. Since the enquiry against the petitioner is pending before the 1st respondent based on the various allegations made against him and he has not given any co-operation for conclusion of the Enquiry, these Writ petitions are liable to be dismissed.

10. Heard both sides and perused the material available on records.

11.On perusal of the records, it is seen that this Court by order dated 13.06.2024 directed the petitioner to appear before this Court on 27.06.2024. In compliance of the said order of this Court, the petitioner appeared before this Court and filed an affidavit stating that he shall co-operate for the conduct of the enquiry which is pending before the 1st respondent, to be concluded within a time frame as fixed by this Hon'ble Court.

12. In view of the above, this Court directs the 1st respondent to conduct the enquiry on the allegations made against the petitioner and pass

appropriate orders in accordance with law within a period of three months from the date of receipt of copy of this Order. Based on the out come of the said enquiry report, the next Hereditary Trustee shall be decided in the manner known to law. Till the out come of enquiry report, the Assistant Commissioner, H.R.&C.E. Dept., Ariyalur District, shall act as co-signatory along with the petitioner and shall coordinate the conduct of Tiruppani for the Kumbabishekam of the Temple.

13. With the aforesaid directions, these Writ petitions are disposed of. No costs.

28.06.2024

Index : Yes/No
Internet: Yes/No
Lbm

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V.BHAVANI SUBBAROYAN, J.,

Lbm

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