



W.P(MD)No.4793 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.4793 of 2024 and
WMP(MD) Nos.4603 & 4604 of 2024

Arulmigu Mottayasamy Temple,
Represented through its
Managing Trustee,
Uiyarani,
Tiruppuvanam Taluk,
Sivagangai District.

... Petitioner

Vs

1.The Commissioner,
Tamilnadu Hindu Religious and
Charitable Endowment Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Tamilnadu Hindu Religious and
Charitable Endowment Department,
Sivagangai.

3. Anusuya

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for



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the records of the 1st respondent dated 27.07.2023 in proceedings Na.Ka.No. 11351/2023 / Aa2 and the consequent notice dated 29.01.2024 in proceedings Na.Ka.No. 7904 / 2016/ Aa1 on the file of the 2nd respondent, quash the same is arbitrary, ultravires contrary to Sec 53 (5) of Tamilnadu Hindu Religious and Charitable Endowments Act 22/1959.

For Petitioner : Mr.R.G.Shankar Ganesh
For R1 & R2 : Mr.P.Subba Raj
Special Government Pleader

ORDER

The petitioner, the Managing Trustee of Arulmigu Mottayasamy Temple, Tiruppuvanam Taluk, Sivagangai District has filed this writ petition as against the proceedings of the Commissioner, HR & CE Department in Na.Ka.No. 11351/2023 / Aa2, dated 27.07.2023 and the consequential notice, dated 29.01.2024 in proceedings Na.Ka.No. 7904 / 2016/ Aa1, issued by the Joint Commissioner.



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2.The learned counsel appearing for the petitioner submits that one Anusuya/the third respondent herein has already suspended by the second respondent by his order dated 05.02.2018 as per Section 53(2)(b)(d)(e) of HR & CE Act, 1959. The third respondent has not filed any appeal as against the suspension order before the Commissioner. Therefore the order dated 05.02.2018 becomes final. The third respondent without preferring an appeal, now filed an application for appointing her as hereditary trustee of the above temple, after eight long years and the same has been mechanically forwarded by the first respondent to the second respondent for consideration of her request.

3.Mr.P.Subba Raj, learned Special Government Pleader who takes notice for the respondents 1 & 2 submits that it is only an enquiry and it does not mean that the third respondent would be appointed as hereditary trustee of the temple.



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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The Commissioner, HR & CE Department has received a representation from the third respondent for appointing her as a hereditary trustee of the subject temple. The respondents are attempting to conduct an enquiry on 29.02.2024. Now the petitioner has placed materials that the third respondent, who was the then hereditary trustee of the subject temple has already been suspended as per Section 53(2)(b)(d)(e) of HR & CE Act, 1959, by order dated, 05.02.2018. The third respondent has not filed any appeal as against the suspension order. Therefore, the order dated 05.02.2018 has become final. In this context, if the enquiry is conducted on the representation of the third respondent, it would be a futile exercise. The learned Special Government Pleader has taken a stand that it is only an enquiry and they would conclude the same by considering the grounds raised by the petitioner also.



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6.It appears that without ascertaining the earlier position of the third respondent that she was suspended by order dated 05.02.2018, the respondents are conducting an enquiry.

7.In view of the above, the impugned proceedings, dated 27.07.2023 and 29.01.2024 are hereby set aside. This writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.03.2024

NCC: Yes/No
Index:Yes/No
Internet:Yes
vrn



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B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.4793 of 2024 and
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