



W.P.(MD).No.11756 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.(MD).No.11756 of 2024
and WMP(MD) No.10503 of 2024

V.P.Jayaram

... Petitioner

Vs

1. The Joint Commissioner/Executive Officer,
Kanyakumari District Temples,
Hindu Religious and Charitable Endowments Department,
Kanyakumari District.
2. The Board of Trustee,
Rep. by its Chairman,
Incorporated and Unincorporated Devaswoms of Kanyakumari District,
Suchindram, Kanyakumari District - 629704.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order in Se.Mu.Na.Ka.No. 695/2024/A2, dated 29.05.2024 passed by the 1st respondent and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.R.Shankar Ganesh

Standing Counsel



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ORDER

Heard Mr.R.J.Karthick, learned Counsel for the petitioner and Mr.R.Shankar Ganesh, learned Standing Counsel, for the respondents.

2.The petitioner, who was working as Melshanthi at Vellimalai Arumugu Kumarasamy Thirukovil, Padmanabhapuram has filed this writ petition challenging the order of transfer, dated 29.05.2024, by which, he was transferred from the said temple to Arulmigu Manakarai Sasta Thirukovil Marthandeswaram Sub Division.

3.The learned counsel for the petitioner submitted that in view of the allegations stated as the transfer order the transfer order is punitive in nature. Further submission is that if there is any lack on the part of Archagas/Melshanthi, the appropriate authority to take action against them would be the Trustees, not the first respondent. The first respondent, who is the appellant authority himself has assumed power to transfer the petitioner on allegations. Hence, the order is not legal and liable to be set aside.



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4. My attention was drawn to the Section 56 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act') wherein it is stated as under:

“56. Punishment of office-holders and servants in religious institutions.—

(1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall be controlled by the trustee and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.

(2) Any office-holder or servant punished by a trustee under sub-section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to 6[the Joint Commissioner or the Deputy Commissioner, as the case may be.]”

5. The above provision would state that due procedure should be followed, if any order of fine, suspension, removal or dismissal to the office-



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holders or servants attached to the religious institution made on the allegation of breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.

6.In the instant case, even though the petitioner was not given with punishment as prescribed under Section 56 of the Act, the transfer order itself would state certain allegations against the petitioner. In such case, the petitioner is entitled to get an opportunity to offer his explanation and on receipt of the same, the Board of Trustees, have to take appropriate action in case these are grounds to made out any lapse or misconduct against the petitioner.

7.Even though the Executive Officer has got the power to issue transfer order, the impugned order has been issued based on allegations, without subjecting the petitioner to the actions that might be initiated by the Board of Trustees. Since the transfer order has been issued even before the Board of Trustees have given their opinion about the allegation, by subjecting the petitioner to any disciplinary action, it appears to be a pre-matured one.



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8.Had the petitioner been transferred on administrative reasons, it is well within the power of the first respondent. Since the order has been effected on allegations, without any reference to the allegations as to its proof and without following the due procedure, the order is liable to be set aside. However, the respondent shall initiate appropriate action after giving the petitioner due opportunity and after observing the conditions contemplated under Section 56 of the Act.

9.In view of the above stated reasons, this writ petition is allowed and the impugned order in Se.Mu.Na.Ka.No. 695/2024/A2, dated 29.05.2024 is hereby set aside. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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To

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2. The Chairman, Board of Trustee,
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Suchindram, Kanyakumari District - 629704.



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R.N.MANJULA, J.

PNM

**ORDER IN
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