BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved On 02.01.2025	Orders Pronounced On 31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.10839 of 2023
and
W.M.P.(MD) Nos.9511, 9514 and 17445 of 2023

G.S.Kannan @ Sethukannan,
S/o.Sethuramalinga Thevar,
Hereditary Trustee of Sathuragiri Sundaramahalingam
Moorthy Swamikkaka Adi Ammavasai,
Navarathri Annathanam Thanneer Charitable
Trust of Sriman Sreenivasa Thevar Dharma Trust,
No.4/75, Bharathiar Street,
Kurinji Nagar, Madurai-625 014. .. Petitioner

Vs.

1.The Secretary of Tamilnadu,
Secretariat, HR & CE,
St. George Fort, Chennai.

2.The Commissioner,
Hindu Religious Endowment Board,
No.119, Nungambakkam High Road,
Chennai-600 034.

3.The Assistant Commissioner,
18, Nachi Street,

Hindu Religious Endowment Board,
Virudhunagar. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, in particular to call for the records of the 3rd respondent in connection with the impugned notice under Ref.No.1797/2022/A2 dated 31.03.2023 followed by Enquiry notice Ref.No.1797/2022/A3 dated 17.04.2023 and quash the same as illegal, arbitrary and without jurisdiction and consequently forbear the respondents 2 and 3 from interfering into the affairs of the petitioner's private trust.

For Petitioner : Mr.K.Muraleedharan

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

The instant writ petition has been filed challenging the notices issued by the third respondent calling upon the interested persons to submit their objections as to why the Trust named Arulmighu Mahalinga

Moorthy Swamikkaka Adi Ammavasai, Navarathri Annathanam Thanneer Charitable Trust should not be brought under the purview of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as “the HR & CE Act”).

2. The case of the petitioner is that the said Trust is a Private Charitable Trust, which would not be considered as a “religious institution”. He would further submit that the properties of the Trust had not been dedicated to the temple and therefore, the authority do not have any jurisdiction to take control over the Trust. Hence, he would seek interference of the show cause notices issued by the third respondent as being without jurisdiction.

3. Countering his arguments, the Special Government Pleader appearing for the respondents would submit that the Trust has also owned a large extent of land of which a portion of land had been dedicated in favour of the temple and and in the said land, shops have been constructed by the petitioner and rents are being received by them.

Hence, the conduct of the Public Charitable Trust would also have to be enquired by the authorities, as a dedication of portion of the Trust properties had been made to the temple and the Trust has also been carrying out charitable purposes for the benefit of the devotees of the temple in question. Hence, they would fall within the definition of "religious institution" as contemplated under the HR & CE Act.

4. I have considered the rival submissions made by the learned counsel on either side.

5. Even according to the petitioner, a Trust has been created for carrying out charitable purposes at Sri Mahalinga Moorthy Temple on the occasion of Adi Ammavasai and Navarathri festivals for construction of mutt and carrying out annadhanam and distribution of water on the said dates.

6. Section 6(19) of the HR & CE Act defines what is "specific endowment". For better appreciation, the relevant provision is extracted

hereunder:

> *"Section 6(19): **"specific endowment"** means any property or money endowed for the performance of any specific service or charity in a math or temple or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (17)."*

A reading of the said provision would envisage that any property endowed for the performance of any specific service or charity in a mutt or temple would be a specific endowment.

7. In the present case, even as per the admitted case of the petitioner, the Trust had been created for carrying out a specific service during the occasion of Adi Ammavasai and Navarathri days in a temple. Hence, the Trust has been created for a specific endowment.

8. Now, reading sub-Section (18) of Section 6 of the HR & CE Act, which defines "religious institution", would envisage that a specific endowment would also be a religious institution.

9. The show cause notice had been issued by the third respondent herein under the provisions of the HR & CE Act, particularly Section 49, which enables the third respondent to deal with a religious institution, which had not been notified.

10. Since I have come to the conclusion that the petitioner institution would fall within the definition of "religious institution", being a specific endowment, I am not able to sustain the contention raised by the learned counsel for the petitioner that the petitioner would not fall under the purview of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In such view of the matter, I am not inclined to interfere with the show cause notice issued to the petitioner. The petitioner shall submit his reply to the show cause notice impugned herein within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the third respondent, after providing an opportunity of hearing to the petitioner, shall pass orders on merits and in accordance with law as expeditiously as possible.

11. With the aforesaid directions, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

31.01.2025

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

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To

1.The Secretary of Tamilnadu,
Secretariat, HR & CE,
St. George Fort, Chennai.

2.The Commissioner,
Hindu Religious Endowment Board,
No.119, Nungambakkam High Road,
Chennai-600 034.

3.The Assistant Commissioner,
18, Nachi Street,

Hindu Religious Endowment Board,
Virudhunagar.

K.KUMARESH BABU, J.

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Pre-Delivery Order made in
W.P.(MD) No.10839 of 2023

Dated: 31.01.2025