



W.P.(MD)No.15917 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

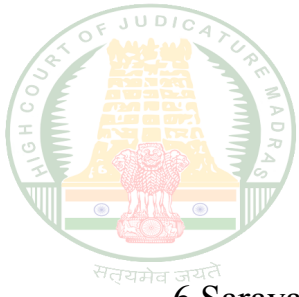
W.P.(MD)No.15917 of 2025
and
W.M.P.(MD)No.12048 of 2025

R.Rajesh Pandi

... Petitioner

-VS-

- 1.The Secretary to Government,
Tourism, Culture and Charitable Endowments
Department, Fort St. George, Chennai.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments
Department, Chennai – 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Administration Department, Ellis Nagar,
Madurai – 625 001.
- 4.The Inspector,
Hindu Religious and Charitable Endowment
Department, Ellis Nagar, Madurai North.
- 5.Board of Trustees,
Arulmigu Pandi Muneeswarar Temple,
Melamadai, Madurai.



W.P.(MD)No.15917 of 2025

6.Saravana Pandian

7. P.M.Chellapandi

8.Lakshmi

9.Ponnupandian

10.Rishi Pandian

11.Jai Veera Pandian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the third respondent dated 28.03.2025, vide proceedings Na.Ka.No.151/2024/AA1 and quash the same.

For Petitioner : Ms.J.Anandhavalli

For R1 to R4 : Mr.M.Ajmalkhan
Additional Advocate General
Assisted by
Mr.SS.Madhavan
Additional Government Pleader

For R9 and R11 : Mr.VR.Shanmuganathan

ORDER

The petitioner is before this Court challenging the order dated 28.03.2025, passed by the third respondent, the Joint Commissioner, in the proceedings under Na.Ka.No.151/2024/AA1.



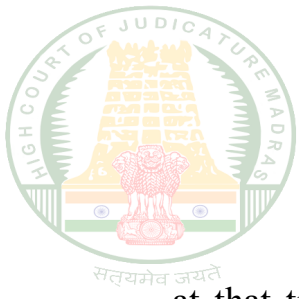
W.P.(MD)No.15917 of 2025

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2. By the impugned order, the proceedings initiated by the show-cause notice dated 13.06.2024 were confirmed. The petitioner, in his capacity as a Trustee, has been superseded due to an alleged act of misfeasance on the date of inspection, *i.e.*, on 15.12.2023. During the inspection, a team of officials from the H.R. & C.E. Department allegedly found the petitioner issuing tickets in the temple using the temple's QR code and it is claimed that the petitioner misappropriated temple funds.

3. It is the case of the respondents that after the show-cause notice was issued on 13.06.2024, the petitioner delayed in filing a reply and multiple adjournments were granted to the petitioner. The final hearing was fixed on 26.03.2025, but the order was passed on 28.03.2025.

4. It is the case of the petitioner that although the show-cause notice was issued on 13.06.2024, he could only file a reply on 03.02.2025 because the documents were provided to him only on 01.08.2024. Further, it is submitted that the impugned order was passed by the third respondent, Chelladurai, who was serving as the Joint Commissioner, H.R. & C.E. Department, Madurai. However,



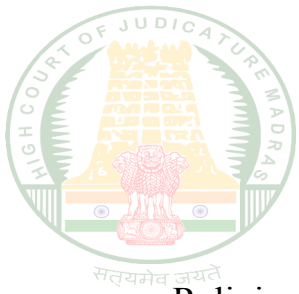
W.P.(MD)No.15917 of 2025

at that time, Mr.Chelladurai had been ordered to be transferred on 19.03.2025.

Despite this, he proceeded to pass the impugned order on 28.03.2025, after his transfer.

5. In response, the learned Additional Advocate General submitted that although the transfer order was issued on 19.03.2025, the incumbent was actually relieved from his duties only on 31.03.2025, after the impugned order was passed. It was further submitted that the incumbent had been seized of the case from the date the show-cause notice which was issued on 13.06.2024 and that over a year had passed, during which approximately seven enquiry notices were issued before the impugned order was passed.

6. The learned Additional Advocate General further submitted that the petitioner's reply to the show-cause notice dated 13.06.2024, which was submitted on 03.02.2025, had been considered thoroughly in the impugned order. Therefore, it was contended that there is no merit in the challenge to the impugned order. It was also pointed out that the petitioner has an alternate remedy available before the Commissioner under Section 26(5) of the Tamil Nadu Hindu

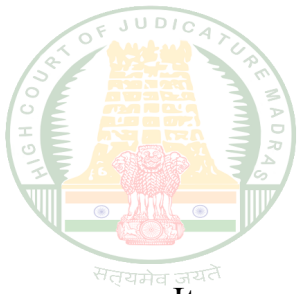


W.P.(MD)No.15917 of 2025

Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the "H.R. & C.E. Act").

7. Further, the petitioner raised the contention that the proceedings against other Hereditary Trustees were initiated under Section 53(1)(a) of the H.R. & C.E. Act. However, in the petitioner's case, the proceedings were initiated under Section 26(1) of the H.R. & C.E. Act, purportedly under sub-clause (h) of the H.R. & C.E. Act, following an inspection conducted on 15.12.2023. Therefore, the learned counsel for the petitioner submitted that this represents unfair discrimination, as the statutory safeguards under Section 53(1)(a) of the H.R. & C.E. Act, were not extended to the petitioner. Therefore, it was contended that the impugned order should be set aside.

8. In response to a query from the learned Additional Advocate General regarding whether the incumbent, who passed the impugned order and had subsequently been transferred to Rameswaram vide order dated 19.03.2025, could be deputed to pass a fresh order after hearing the petitioner, the learned Additional Advocate General submitted that the impugned order is well-reasoned.



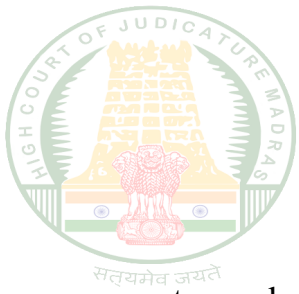
W.P.(MD)No.15917 of 2025

It was noted that the petitioner had repeatedly sought adjournments and the order was passed on merits after thoroughly considering the petitioner's reply.

9. Furthermore, the learned Additional Advocate General submitted that the impugned order is a reasoned and appealable order and the petitioner has the option to appeal before the Commissioner under Section 26(5) of the H.R. & C.E. Act.

10. The learned counsel for the respondents 9 and 11, who are also the other Trustees nominated pursuant to the order of the Hon'ble Supreme Court along with the petitioner, sail along with the respondents/Government and submitted that the petitioner has been involved in the collection of amounts in a manner that deprives the Trustees of their rightful share of the income from such collections.

11. It was further submitted that the proceedings under Section 26 of the H.R. & C.E. Act are summary in nature and therefore, the petitioner cannot expect the procedural safeguards provided under Section 53(1)(a) of the H.R. & C.E. Act



W.P.(MD)No.15917 of 2025

to apply in this context. In support of this argument, a reference was made to the decision of the Division Bench of this Court in the case of **P.Krishnamoorthy vs. The Commissioner, H.R. & C.E. Department and others**, rendered on **08.11.2017** in **W.A.(MD)Nos.1273 to 1277 and 1247 to 1251 of 2016**. The learned counsel referred specifically to Paragraphs 36 and 37 of the said judgment, wherein the Division Bench of this Court held as follows:-

"36.Thus, on a plain reading of Section 26, in its entirety, a clear picture emerges that the decision to be taken by the Joint Commissioner / Deputy Commissioner, as to whether a trustee has become subject to any disqualification, is a summary decision and such decision cannot be placed in the same pedestal as a decision which is required to be taken under Section 53 (2) of the Act, which deals with the power to suspend, remove or dismiss any trustee.

37.Therefore, we have no hesitation to hold that the procedure required to be followed to decide the question of disqualification under Section 26 (3) or (4) is a decision to be taken in a summary manner adhering to the principles of natural justice. If we are to read the procedure under Sub Section 3 of Section 53 into Sub Section 3 of Section 26, we would be rewriting the statute, which cannot be done."

12. A reference was also made to Paragraphs 54 and 55 of the said judgment, which reads as follows:-



W.P.(MD)No.15917 of 2025

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"54. As we have held that the power of supersession of the Board of trustees is distinct from the power under Section 53 to suspend, remove or dismiss the trustee, the power under Section 26 is exercisable by the Joint Commissioner / Deputy Commissioner as the case may be and in this case, by the second respondent.

55. Having held so, the only remedy open to the petitioners is to file an appeal to the first respondent under Sub Section 5 of Section 26 of the Act."

It is therefore submitted that the impugned order does not merit any interference, and accordingly, the Writ Petition is liable to be dismissed.

13. The learned counsel for the respondents 9 and 11 further drew attention to the difference in the language between Section 26(1)(h) and Section 53(2)(j) of the H.R. & C.E. Act, which read as follows:

Section 26(1)(h) of the H.R. & C.E. Act	Section 53(2)(j) of the H.R. & C.E. Act
26. Disqualification of trustees.- (1) A person shall be disqualified for being appointed as, and for being, a trustee of any religious institution or endowment,- (h) if he has acted adverse to the interest of any religious institution or endowment.	53. Power to suspend, remove or dismiss trustees.- (2) the appropriate authority may suspend, remove or dismiss any trustee, if he- (j) acts adversely to the interests of the institution or endowment.



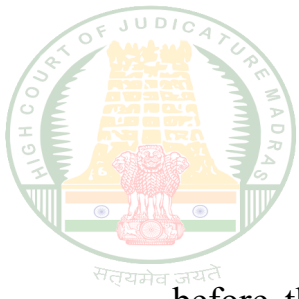
W.P.(MD)No.15917 of 2025

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14. In response, the learned counsel for the petitioner submitted that the impugned order was served on the petitioner only on 22.05.2025.

15. Having considered the submissions made by the learned counsel for the petitioner, the learned Additional Advocate General for the official respondents, and the learned counsel for the respondents 9 and 11, I am of the view that the petitioner has been a recalcitrant noticee. The petitioner did not respond promptly to the show cause notice dated 13.06.2024. Instead, the petitioner repeatedly delayed filing the reply, despite the documents being furnished to the petitioner on 01.08.2024. The reply was filed only on 03.02.2025. After that, only a few days remained before the incumbent was transferred to Rameswaram, as per the order dated 19.03.2025. The incumbent would have been under pressure to complete the proceedings, as he had been seized of the matter, since the issuance of the show cause notice on 13.06.2024.

16. The question of whether the petitioner was rightly proceeded against under Section 26 of the H.R. & C.E. Act and whether the impugned order was justifiable, can be addressed by the petitioner through the appellate proceedings



W.P.(MD)No.15917 of 2025

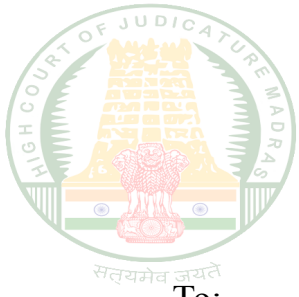
before the Commissioner under Section 26(5) of the H.R. & C.E. Act. In the interests of justice, this Court grants the petitioner the liberty to file a statutory appeal before the Commissioner, who serves as the Appellate Authority under Section 26(5) of the H.R. & C.E. Act, within a period of two weeks from the date of this order.

17. The official respondents shall maintain the status quo *ante*. It is open for the petitioner to seek appropriate relief, including the stay of the impugned order, before the Commissioner. The Commissioner shall consider and dispose of such a request, taking into account the *prima facie* merits of the case, the balance of convenience, the injury that may be caused to the temple and the prejudice to the petitioner. The Commissioner is directed to dispose of the stay petition expeditiously, preferably within a period of one month from the date of filing the appeal.

18. This Writ Petition stands disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
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12.06.2025



W.P.(MD)No.15917 of 2025

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W.P.(MD)No.15917 of 2025

C.SARAVANAN, J.

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W.P.(MD)No.15917 of 2025

12.06.2025