IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 16.03.2026	Pronounced on 17.04.2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP.No.32122 of 2015

A. Ramakrishnan
S/o. Alwar Iyengar,
No.84, Selvam Street,
Nanguneri, Tirunelveli District

..Petitioner(s)

Vs

1. The Commissioner,
   Hindu Religious & Charitable Endowments
   Administration Department,
   Chennai - 600 034

2. The Joint Commissioner,
   Hindu Religious & Charitable Endowments Dept.,
   Tirunelveli

3. The Executive Officer,
   A/M. Nainar Kulasekara Vinayagar Temple,
   Aralvaimozhi, Kanyakumari District

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records in R.P.No.128/2014 D2 dated 31.07.2015 on the file of the first Respondent viz, Commissioner, Hindu Religious and Charitable Endowments Dept., Chennai-34 and quash the same.

For Petitioner(s): Mr.P.Gopalan

For Respondent(s): Mr.S.Ravichandran (For R1 And R2)
Additional Government Pleader

ORDER

The Writ Petition has been filed to call for the records in R.P.No.128/2014 D2 dated 31.07.2015 on the file of the first Respondent viz, Commissioner, Hindu Religious and Charitable Endowments Dept., Chennai-34 and to quash the same.

2.1.The case of the petitioner is that he was appointed as Junior Assistant in 1978 and served as Accountant in Arulmighu Nainar Kulasekara Vinayagar Thirukoil, Aralvaimozhi. After Mr.Ramasubbu became Executive Officer in 1998, the petitioner was harassed. From the year of 2000 onwards, the petitioner was not assigned any work, however, the Executive Officer issued a letter dated 05.10.2000 alleging that the lease amount of Rs.15,000/- paid by the lessees has not been accounted in the temple accounts. For the said allegation, the petitioner replied on 09.10.2000 stating that he had neither collected nor received the said amount. Thereafter, the Executive Officer issued a charge memo on 29.03.2001 by framing 8 charges, including the above claim of unaccounted lease amount, even though the said amount has been paid later to the temple directly by the lessees.

2.2.Another charge memo dated 30.03.2001 was also issued reiterating the same allegations. The petitioner submitted an explanation on 12.04.2001 denying all charges. Thereafter, four additional charges were framed against the petitioner on 25.02.2003 and the petitioner submitted an explanation dated 03.03.2003 seeking exoneration from all the charges. However, the Executive Officer by proceedings dated 17.07.2003 treated the petitioner as he had resigned from the service, pursuant to the letter dated 15.07.2003 and the petitioner was also directed to pay a sum of Rs.1,19,359.91 by the said proceedings.

2.3.The petitioner informed the Joint Commissioner by letter dated 19.07.2003 that he had not submitted any resignation letter, based upon which the Joint Commissioner issued a direction to the 3rd Respondent, to keep all his actions in abeyance by letter dated 19.07.2003 in Na.Ka.No.14032/03-2, B-2. However, the alleged resignation letter copy was never furnished to the petitioner so far. Inspite of directions issued by the Joint Commissioner, the

Executive Officer initiated surcharge proceedings on 21.07.2003, even though he had no jurisdiction under Section 90 of the Tamil Nadu H.R. & C.E. Act, as the amounts were collected and audited. After the explanation of the petitioner dated 11.08.2003, the Executive Officer issued a telegram, directing him to rejoin duty on 10.12.2003, but the petitioner was not paid salary for the period from July to December 2003.

2.4.On 09.03.2004, the petitioner was suddenly suspended and asked to appear for an enquiry, scheduled on 29.03.2004. Meanwhile, the petitioner informed the Executive Officer on 27.03.2004 that he had already filed an appeal before the Joint Commissioner. Despite attending the enquiry on 29.03.2004, 12.04.2004, 23.09.2004 and 07.10.2004, the Executive Officer repeatedly adjourned and failed to conduct the enquiry. Without conducting any proper enquiry, the Executive Officer issued an order dated 26.10.2004 dismissing the petitioner from service, stating that the petitioner had neither submitted any explanation nor appeared for the enquiry, even though explanations had been submitted and acknowledged.

2.5.It is his further contention that the Executive Officer had no jurisdiction to initiate disciplinary proceedings. However, the petitioner's appeal to the Joint Commissioner was dismissed, without considering his documents and he also preferred Revision before the first respondent, which was also dismissed in R.P.No.128/2014 D2 dated 31.07.2015 on the ground that original documents had not been filed in the impugned order. Hence this Writ Petition.

3.1.The third respondent filed a counter affidavit stating that the petitioner challenged the order of the first respondent dated 31.07.2015, which confirmed the order of the second respondent dismissing his appeal against the third respondent's order of removal from service dated 26.10.2004. The removal order was passed based on the resolution of the Fit Person of the temple dated 25.10.2004. The petitioner had only challenged the first respondent's order and not the original order of removal from service. The present writ petition is not maintainable, as the petitioner has an alternative remedy under Section 114 of the H.R.&C.E., Act and has not made the Fit Person/the Assistant Commissioner as a party, who was the authority passed the disciplinary resolution.

3.2.The petitioner joined the temple as Accountant in 1978. On

24.09.2000, it was reported that he had retained a sum of Rs.15,000/- towards lease amount to be paid to the temple and other amounts of Rs.5,882/- without proper accounting. The petitioner orally suggested to treat, some part of the amount as his travel expenses. Based on the above, a show cause notice dated 05.10.2000 was issued to him. Since the petitioner did not submit a reply, the matter was reported to the Fit Person, who passed a resolution on 12.12.2000 to initiate disciplinary proceedings and suspend him. Despite repeated instructions to the writ petitioner, he failed to maintain the accounts properly. Charges were framed on 30.03.2001 and notices were sent to him, however, the petitioner did not respond. The replies submitted by the petitioner along with the writ petition were not received by the temple and there is no proof of delivery.

3.3.The Zonal Audit Officer later pointed out irregularities in maintaining the accounts for a sum of Rs.1,19,359.91, which was communicated to the petitioner on 25.02.2003. The petitioner submitted a reply on 03.03.2003, subsequently, he submitted a resignation letter, which was accepted by the Fit Person, subject to recovery of the amounts in due. The petitioner later claimed that he had not resigned and therefore, the second respondent directed the third respondent to keep the order in abeyance. Even thereafter, the petitioner failed to attend the enquiry scheduled on 29.03.2004, 23.09.2004 and 07.10.2004. The alleged letters of adjournment of enquiry, which were signed by the head priest Mr.M.Pandu Pillai are false, as the head priest had no authority to issue the same. Additional charges were also framed against the petitioner.

3.4.On 25.10.2004, the Fit Person resolved to remove the petitioner from service for his insubordination and for non-appearance at the enquiry and the removal was communicated by the third respondent on 26.10.2004. The petitioner's appeal to the second respondent under Section 56(2) of HR & CE Act was dismissed on 25.09.2014 and the revision before the first respondent was dismissed on 31.07.2015.

3.5.The third respondent further submitted that the petitioner misappropriated temple funds, frequently absented himself without getting permission. The show cause notices, charge memos and order of removal were communicated by the third respondent only in his official capacity as Executive Officer and the decisions were taken by the Fit Person through proper resolutions under Rule 14 of the Functioning of the Board of Trustees Rules.

4.The learned counsel for the petitioner submitted that in the charge memo dated 29.03.2001, eight charges were framed and another charge memo dated 30.03.2001 was issued by the Executive Officer, who has no authority or power to initiate disciplinary proceedings or to issue charge memos and therefore, the same are without jurisdiction. These details have reflected in the explanation of the petitioner to the charge memo dated 12.04.2001, wherein he had given a detailed reply to all the eight charges framed against him.

5.He further submitted that the petitioner had given his explanation on 03.03.2003 to the third respondent and also sent a second explanation to the second respondent on 19.07.2003. By order dated 21.07.2003, the third respondent had directed the petitioner to pay the entire amount of Rs.1,19,359.91 within a period of fifteen days from the date of receipt of a copy of that order.

6.He further submitted that the disciplinary proceedings initiated by the third respondent are without jurisdiction, in view of Sections 55 and 56 of the H.R.&C.E. Act. Section 55 of the H.R.&C.E. Act contemplates the appointment of office holders and servants in religious institutions and Section

56 deals with the punishments of office holders and servants in religious institutions.

7.He further pointed out that the power to initiate disciplinary action is vested with the Board of Trustees/Trustees and not with the Executive Officer, who is the third respondent. However, the dismissal order dated 26.10.2004 was passed by the third respondent/Executive Officer. The said dismissal order does not reflect any of the explanations given by the writ petitioner and proceeds as if the writ petitioner had not taken part in the disciplinary proceedings and had not offered any explanation.

8.Per contra, the learned Government Pleader submitted that, in the enquiry while issuing the charge memo, the writ petitioner was called upon to offer his explanation. With regard to the explanation relied upon by the writ petitioner dated 11.03.2004 and the representation dated 15.03.2004, there is no reference as to whether the same were submitted by hand delivery or by registered post. There is neither an acknowledgment nor any proof submitted by the writ petitioner in proof of delivery. Even the copies annexed in the typed set of papers contain no reference to acknowledgment. There is no signature or seal to establish the case of the writ petitioner that he had given his explanation and for the representation.

9.With regard to the submission of the petitioner that he was informed by one Mr.Pandu Pillai about the adjournment of the enquiry and that Mr.Pandu Pillai had issued letters of adjournment, the learned Government Pleader submitted that Mr.Pandu Pillai is an Archahar and is not an authorised person to issue such letters on behalf of the third respondent. He seriously disputed the said letters allegedly issued and signed by Mr.Pandu Pillai, in the absence of any delegation of power to him. Therefore, no credential can be given to such letters to show that the writ petitioner had participated in the disciplinary proceedings. There is no infirmity in the order passed by the third respondent. The learned Government Pleader further relied upon Rule 14 of the Rules under the HR&CE Act, 1959 which is usefully extracted hereunder:

> *"14.All matters relating to the administration of the religious institution shall be decided at the meetings of the Board of Trustees. The Executive Officer or the Chairman of the Board of Trustees, as the case may be, shall carry into effect the decisions of the Board of Trustees after obtaining the orders of the competent authority on individual subjects."*

10.The learned Government Pleader further contended that Rule 14 prescribes the functioning of the Board of Trustees and has been framed under Section 116(2)(viii) and (xi) read with Sections 47, 48 and 49 of HR & CE Act. As per which, the third respondent is empowered to initiate disciplinary proceedings and therefore, the impugned order does not suffer from any infirmity.

11.Heard the learned counsel for the parties and perused the available records.

12.The point for consideration in this matter is, *whether the writ petitioner had taken part in the domestic enquiry?*

13.The sum and substance of the charges framed against the writ petitioner are as follows:

> *Charges:*
> *1.For various auctions for the year of Fazli 1410, the sum of ₹15,000 which has been paid to you by the Bidders, is to be deposited into the temple account i.e request made by the temple vide reference no.1 where 6 months have passed, the fact that you have not responded shows your arrogance and negligence. You have misappropriated the above Rs. 15,000/- and causing financial loss to the temple which resulted in a financial loss to the temple.*
>
> *2.You are holding temple funds in your possession. A total of ₹3,355.91*

(₹2,142 from Arulmigu Kulashekara Vinayagar Temple and ₹1,213.91 from Arulmigu Meynindra Vinayagar Temple) has been kept by you for over a year without being remitted to the administration, causing financial loss.

3.You took a sum of ₹2,800 to pay land tax but failed to pay it. You have misappropriated this amount, causing financial loss to the temple.

4.Despite multiple oral and written requests to hand over temple registers, documents, and files, you have failed to do so and have taken them away from the temple premises. This is considered an act of theft.

5.You have been taking leave as you please without permission and staying away from the office. Since your explanations for these absences are unsatisfactory, a separate order will be issued regarding this.

6.Instead of attending to office work during temple hours, you simply loiter around the temple. You leave for personal reasons during evenings and declare holidays for yourself on Saturdays/Sundays without authorization. Furthermore, you have ignored the Executive Officer's orders by bringing a large trunk/box into the temple despite being told it is prohibited.

7.You are maintaining contact with individuals who work against the welfare of the temple and are acting in a manner detrimental to the temple's interests. You have failed to submit weekly/monthly work reports or details regarding lease collection. On days you visit the temple, you do no work and claim that your health does not permit you to work. Under these circumstances, how can you be placed on compulsory retirement

8.You must submit your explanation for the above charges within 15 days. Failure to do so will result in a final order being passed based on the records, assuming you have no explanation to offer.

Additional four charges:

1. Para No.2: Failure to collect lease arrears -Rs.58391/- Rs.58,391/-, contrary to auction rules.

2. Para No.3: Loss incurred due to failure to settle -Rs.50,518/- long-standing arrears.

3. Para No.6: Misappropriation of funds regarding sukku kudineer and sugar distribution to Muppandal Kodai festival devotees.	*-Rs.4,000/-*
4. Para No.11: On 18.08.98 ₹1,000 was given for posters, but approval/receipt exists only for ₹700.	*-Rs.300/-*

14.The writ petitioner being an accountant had received money which ought to have been credited to the temple account. However, he failed to do so and despite service of notice, he did not participate in the enquiry. The documents placed before this Court lack authenticity and do not establish that they were submitted before the Enquiry Officer. These documents appear to have been created only to show as if no opportunity had been given to the petitioner.

15.Similarly with regard to the explanation offered by the writ petitioner to the third respondent vide letter dated 11.03.2004 and the representation of the petitioner to the second respondent dated 15.03.2004, the same were neither sent by registered post nor delivered in person. Even the copies are not duly acknowledged. These letters are seriously disputed by the respondents. When it is the specific case of the respondents that no explanation was received, the writ petitioner ought to have established the same by producing necessary acknowledgment. In the absence of any such proof, the fact that the petitioner had made such representation cannot be accepted.

16.In the letters referred by the writ petitioner dated 12.04.2004 and 23.09.2004, signed by one Mr.Pandu Pillai, who is the Archahar of the temple, the seal of the temple is found in those letters. However, the letters of adjourment have been seriously disputed by the third respondent. In such circumstances, it is for the writ petitioner to establish that he had participated in the disciplinary proceedings. No material has been placed to show that the petitioner made any genuine attempt to participate in the enquiry. Therefore, the petitioner participated in the enquiry cannot be accepted. Further, from the letter issued by the petitioner regarding payment credited to the temple account, it is evident that the petitioner himself stated that he would deduct the amount due to him, thereby indicating that he was taking decisions on his own.

17.This is a classic case where the accountant of a small temple has misappropriated funds, which is like a fence consuming the crop, which is meant to protect. If such a claim is accepted on technical grounds, it would defeat the very purpose of disciplinary proceedings. It is not in dispute that an opportunity must be given in a domestic enquiry. However, in this case, the petitioner did not participate and he has attempted to create documents to give the impression that he has attended the enquiry. This is a clear attempt to mislead the Court by projecting that no opportunity was given, which is factually incorrect. This Court strongly deprecates such practice, as it amounts to interference with the justice delivery system.

18.With regard to the power under Section 55 of the Act, the jurisdiction has been explained under Rule 14 of the Act. Therefore, there is no infirmity in the order passed by the third respondent, as confirmed by the second respondent and further confirmed in the revision by the first respondent.

18.In fine, the writ petition is dismissed as devoid of merits. No costs.

17.04.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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N.SENTHILKUMAR, J.
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To

1. The Commissioner,
   Hindu Religious & Charitable Endowments
   Administration Department, Chennai - 600 034

2. The Joint Commissioner,
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   Tirunelveli

3. The Executive Officer,
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Pre-delivery order made in
WP No. 32122 of 2015

17.04.2026