

(1999) 06 MAD CK 0075

In the Madras High Court

Case No : Writ Petition No. 8153 of 1999

D.K. Nagabushanam

APPELLANT

Vs

The Commissioner, Hindu Religious and Charitable
Endowment (Administration), Nungambakkam Chennai-600
034 and The Executive Officer/Joint Commissioner Arulmighu
Subramaniya Swami Thirukoil Thiruthani-631 209

RESPONDENT

Date of Decision : 16-06-1999

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 56(1)

Citation : (1999) 06 MAD CK 0075

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : P. Krishnan, for the Appellant; R. Balasubramaniam, AGP, for the Respondent

Judgement

P.D. Dinakaran, J.—The petitioner seeks a Writ of Certified Mandamus to call for the records of the second respondent dated 14.12.1998 made in Na.Ka. No. 2917/98/2, to quash the same and to consequently direct the second respondent to pay the full salary of the petitioner from the date of the impugned order namely, 14.12.1998. By the proceeding dated 14.12.1998, which is impugned in the above writ petition, the second respondent has placed the petitioner under suspension pending an enquiry into the alleged charges framed therein.

2. According to Mr. P. Krishnan, learned counsel for the petitioner, the petitioner, on oral instruction of the second respondent, had permitted third parties to remove the stone pillars, which was of Pallava days, buried under the temple premises. According to him, the said pillars had no independent utility value, and therefore, the disposal of the same, particularly with the permission of the second respondent, cannot be considered as a serious charge, warranting an order of suspension impugned in the above writ petition.

3. The learned counsel for the petitioner further contends that u/s 56(1) of the

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the second respondent has no authority to pass the impugned order of suspension. The learned counsel for the petitioner also contends that the petitioner is denied fair and reasonable opportunity to cross-examine the seven witnesses alleged by the Management.

4. Per contra, Mr. R. Balasubramanian, learned Addl. Government Pleader, placing reliance on the averments stated in the counter affidavit filed on behalf of the respondents, contends that the petitioner had handed over the impugned stone pillars to the third parties without any permission from the competent authorities, and therefore the Executive Officer has got the right to place the petitioner under suspension as the charges levelled against him are considered, to be very serious in nature in as much as the said order of suspension has now been approved and ratified by the Board of Trustees.

5. I have given a careful consideration to the submissions of both sides.

6. From the very facts and circumstances of the case, there cannot be any dispute that the removal of the stone pillars, which were considered to be of Pallava days even according to the petitioner, assuming they were damaged and got buried within the temple, has got its own historical value, and the disposal of the said stone pillars to the third parties without any proper permission from the authorities have rightly been considered by the respondents as grave charges. Therefore, I am unable to accept the contention of the learned counsel for the petitioner that the charges framed against the petitioner are not grave in nature. With regard to the power of the second respondent to pass the impugned order of suspension, I am obliged to refer Section 56(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, which reads as follows

56(1) All officeholders 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.

7. Placing reliance on Section 56(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the learned counsel for the petitioner, contends that the trustees alone have got the power to pass the impugned order of suspension,,

8. I am unable to accept the above contentions of the learned counsel for the petitioner. Section 56(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, deals with the punishment viz., fine, suspension, removal or dismissal that could be imposed upon the officeholders and servants in the religious institutions for their breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or any other sufficient cause.

9. The order of suspension pending an enquiry into the alleged charges framed

against the petitioner, in my considered opinion, cannot be termed as an order of punishment mentioned in Section 56(1) of the Act. The suspension pending an enquiry into the alleged charges levelled against the petitioner, which is impugned in the above writ petition, is incidental to the powers conferred u/s 56(1) of the Act. That apart, even though Rule 4 of the Punishment of Office-Holders and Servants of Religious Institutions (other than Maths and Specific Endowments attached thereto) Rules enables only the trustees to pass an order of suspension pending disposal of the grave charges, I find that the impugned order of suspension has been duly approved by the Board of Trustees on 28.4.1999, in compliance of Rules 14 and 15 of the Functioning of the Board of Trustees Rules and therefore, by so tracing the powers of the Board of Trustees, I am unable to accept the contentions of the learned counsel for the petitioner that the impugned order of suspension suffers from want of jurisdiction.

10. However, I am obliged to direct the second respondent to conduct an enquiry after giving fair and reasonable opportunity to the petitioner to cross-examine those witnesses of course, without prejudice to the right of the petitioner to engage an advocate in the enquiry, if required, and to pass final order in the matter within six months from the date of receipt of a copy of this order, or otherwise, the impugned order of suspension shall stand revoked automatically. In the meanwhile, the petitioner shall be paid with subsistence allowance every month, without any default. The writ petition is dismissed with the above direction. Consequently, W.M.P. Nos. 11550 & 11551 of 1999 are also dismissed. No costs.