

(2013) 04 MAD CK 0123

In the Madras High Court

Case No : Writ Petition (MD) No. 576 of 2012 and M.P. (MD) No. 1 of 2012

K. Murugesan

APPELLANT

Vs

The Joint Commissioner and The Assistant Commissioner

RESPONDENT

Date of Decision : 01-04-2013

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 45, 45(4)

Citation : (2013) 04 MAD CK 0123

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : R. Murugappan, for the Appellant; M. Murugan, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—The petitioner is working as Executive Officer Gr. IV, in Arulmigu Chockanathasamy Temple, in Virudhunagar

District. He is placed under suspension by the impugned order by the first respondent. The same is questioned in this writ petition. A counter

affidavit has been filed by the respondents refuting the allegations.

2. Heard the learned Counsel for the petitioner and the learned Government Advocate appearing for the respondents.

3. The learned Counsel for the petitioner has submitted that the impugned order of suspension is violative of Section 45 of the Tamil Nadu Hindu

Religious and Charitable Endowments Act, 1959. According to him, the Commissioner alone can place the petitioner under suspension.

4. On the other hand, the learned Government Advocate appearing for the respondents has submitted that the first respondent/Joint Commissioner,

being the Superior Officer to the petitioner, is entitled to place him under

suspension. He has relied on Rule 14(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and also G.O. (standing order) No. 609 of Tamil Nadu Hindu Religious and Charitable Endowments Department, dated 21.12.1999.

5. I have considered the submissions made by both sides.

6. The petitioner is placed under suspension during the pendency of the disciplinary proceedings that was initiated, pursuant to the issuance of

charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The suspension order is passed under Rule 17(e)

of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner heavily relies on Section 45(4) of the Tamil Nadu Hindu Religious

and Charitable Endowments Act, 1959. Section 45 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is extracted hereunder:

45. Appointment and duties of Executive Officers.

(1) Notwithstanding anything contained in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an executive

officer for any religious institution other than a math or a specific endowment attached to a math.

(2) The executive officer shall exercise such powers and discharge such duties as may be assigned to him by the Commissioner:

provided that only such powers and duties as appertain to the administration of the properties of the religious institution referred in sub-section (1)

shall be assigned to the executive officer;

(3) The Commissioner may define the powers and duties which may be exercised and discharged respectively by the executive officer and the

trustee, if any, of any religious institution other than a math or a specific endowment attached to a math.

(4) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive officer.

7. The word ""suspend"" that is appearing in Section 45(4) of the Act, shall be read along with other words viz., ""remove" and ""dismiss"". That is,

Section 45(4) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 contemplates imposing of punishment of ""removal"" or

dismissal"" or ""suspension"". In the case of imposing of punishment of suspension, it is only the Commissioner who can impose the same. In this

case, the impugned order is not one imposing punishment of suspension. It is only an interim measure and the petitioner is kept under suspension

during the pendency of the disciplinary proceedings. At this juncture, it is relevant to extract Rule 14(a) of the Tamil Nadu Civil Services (Discipline

and Appeal) Rules:

14(a) (1) The authority which may impose suspension referred to in rule 17(e) or penalties of-

(i) censure

(ii) fine,

(iii) withholding of increments, and

(iv) (a) recovery from pay of the whole or part of any pecuniary loss caused to the State Government or the Central Government or to a local body

by negligence or breach of orders, or

(b) recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld, where such an

order cannot be given effect to, on a member of a Subordinate Service shall be his immediate superior Officer of the State Services or, where the

appointing authority for such members is an Officer of the Subordinate Services, such officer or any higher authority;

8. Therefore, I am of the view that the Joint Commissioner, being the Superior Officer to the petitioner, is entitled to place the petitioner under

suspension as per Rule 14(a) r/w 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Therefore, the writ petition fails and

hence, it is dismissed. Consequently, the connected Miscellaneous Petition is dismissed. No costs.