

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No. 27646 of 2021

A.Radhakrishnan

... Petitioner-in-person

Vs.

1. The Secretary to Government
Tourism Culture and Endowments Department
Secretariat
Chennai – 600 009.
2. The Secretary to Government
Revenue Department
Secretariat
Chennai – 600 009.
3. The Secretary to Government,
Industrial Department,
Secretariat
Chennai – 600 009.
4. The Secretary to Government
Home Department,
Secretariat
Chennai – 600 009.
5. The Commissioner
Hindu Religious & Charitable Endowments
119, Nungambakkam High Road,
Chennai – 600 034.

6. The Commissioner of Revenue Administration
Chepauk
Chennai – 600 005.
7. The Commissioner of Land Administration
Chepauk
Chennai – 600 005.
8. The Commissioner of Survey and Settlements
Chepauk
Chennai – 600 005.
9. The Director Geology and Mining
Guindy
Chennai – 600 032.
10. The Director General of Police
and Head of the Police Force
Dr.Radhakrishnan Salai,
Chennai – 600 004.
11. The Inspector Cell Officer
1st Floor, Collectorate
Salem – 636 001.
12. The District Executive Magistrate cum Collector
Krishnagiri.
13. The Deputy Inspector General of Police
Salem Range
Salem – 636 007.
14. The Regional Deputy Director
Survey and Land Records Department,
Collectorate Campus,
Coimbatore.
15. The Joint Commissioner
Hindu Religious & Charitable Endowments
Thiruvanamalai.

16. The Assistant Commissioner
Hindu Religious & Charitable Endowments
Krishnagiri.
17. The Executive Officer
Arulmigu Veera Anjaneyarswamy Temple
Baiyur, Sappanipatty
Errahalli Panchayat
Krishnagiri Taluk and District.
18. The Fit Person
Arulmigu Anumantharaya Swamy Temple
Nagamangalam Village
Thenkanikottai Taluk
Krishnagiri District.
19. The Fit Person,
Arulmigu Pattalamman Temple
Palekuli Village
Krishnagiri Taluk and District.
20. The Fit Person,
Arulmigu Periyamalai Perumal Temple
Palekuli Village
Krishnagiri Taluk and District.
21. The Present Administrator
Arulmigu Varadharaja Perumal Temple
Old Arasampatty
Pendarahalli Village
Pochampalli Taluk
Krishnagiri District.
22. The Executive Officer
Arulmigu Kothandaramaswamy Temple
Baiyur,
Kaveripattinam Village
Krishnagiri Taluk and District.

23. The Fit Person
Arulmigu Kasiviswanathar Temple
Koolikanapalli Village
Hosur Taluk
Krishnagiri District.
24. Thiru. Govindaraj
Head Assistant
Assistant Commissioner's Office
Hindu Religious & Charitable Endowments Department,
Krishnagiri ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 5 to 16 to secure and safeguard the properties of the 17th to 23rd respondents temples by considering the petitioner's representations dated 19.09.2016, 07.09.2018, 06.05.2021, 29.11.2021 and 11.12.2021 and also as per the instructions issued by the 12th respondent in Na.Ka.No.23461/2016 LR2 dated 23.02.2018.

For Petitioner : Mr. A.Radhakrishnan
Party-in-person

For RR 1, 5, 15 & 16: Mr. T.Chandrasekaran
Special Government Pleader
HR & CE

For RR 2 to 4 and
6 to 14 : Mr.V. Manoharan
Additional Government Pleader

For RR 1, 7 to 24 : Mr. S.Sithirai Anandan

ORDER

A Writ of Mandamus has been instituted to direct the respondents 5 to 16 to secure and safeguard the properties of the 17th to 23rd respondents temples by considering the petitioner's representations dated 19.09.2016, 07.09.2018, 06.05.2021, 29.11.2021 and 11.12.2021 and also as per the instructions issued by the 12th respondent in Na.Ka.No.23461/2016 LR2 dated 23.02.2018.

2. The petitioner in person states that for the past about 25 years, he has involved in to secure and safeguard the temple properties and to restore the said properties for the benefit of the temples concerned. The petitioner states that in Krishnagiri District, while inspecting several temples, the properties worth about several crores belong to many temples are being looted and large scale of illegal mining operations are permitted with the active and passive collusion of the public officials. He took several efforts to control the illegal mining operations in temples properties and to restore the properties for the welfare of the temple activities and for the benefit of the devotees and to honour the donors, who donated the properties for providing service to the temples.

3. The petitioner made several representations approached the authorities in person, participated in review meetings conducted and he relies on the orders of the District Collector, Krishnagiri in proceeding dated February 2018 wherein the District Collector raised 15 queries for collecting the details and for initiation of further action in respect of the fact that the District Collector considered the seriousness of the issue and insisted the competent authorities of the HR & CE Department to ascertain the details for the purpose of initiation of action. Though the District Collector issued the proceedings in the year 2018, no much progress has been made by the authorities on account of lack of coordination between the Department and therefore, the petitioner is constrained to move the present Writ Petition.

4. The learned Special Government Pleader appearing on behalf of the HR & CE Department and the learned Additional Government Pleader appearing on behalf of the other Government Departments, made submissions stating that actions are initiated in respect of the serious allegations raised by the petitioner. The District Collector convened meetings and review meetings and on 23.11.2011, the Officials from various Departments participated in the review meeting conducted through

Video Conferencing and certain required particulars were also collected and discussions were made for further actions. In this regard, show cause notice was issued by the Director of Geology and Mining to initiate action against the allegations of illegal mining operations.

5. The petitioner in person reiterated by stating that meetings are conducted however actions are yet to be taken in respect of illegal mining and for recovery of temples properties running to several crores. The petitioner in person brought to the notice of this court that the illegal mining itself is running to more than 200 crores and the income derived from the mining operations are not gone to the temples and therefore, the illegal mining are to be dealt with in the manner known to law.

6. Considering the submissions made on behalf of the parties to the Writ Petition on hand, this Court is of the considered opinion that the allegations set out by the petitioner in his representations are no doubt shocking to the concious of this Court. Illegal mining operations itself is running to more than 200 Crores. Several acres of temples properties are being looted and documents are registered fraudulently and the properties belong to the temples are not being utilised for the benefit of the temples.

7. Few great souls donated their hard earned property and money and jewellerys and other belongings for the welfare of the temples and to do service to the temples and to the devotees. When such great souls donated their valuable properties for a particular purpose, the Administrators of the temples are duty bound to ensure that the properties donated are utilised for the purpose for which it is donated and in the event of non maintenance, the authorities competent are also liable and must be held responsible for their lapse, negligence and dereliction of duty.

8. The HR & CE Act provides protection and maintenance of the temple properties and the actions to be initiated in the event of any violations. It is unfortunate that the provisions of the HR & CE Act has not been implemented in an effective manner by the competent authorities resulted in looting of the temple properties in a large scale manner across the State of Tamilnadu.

9. This Court is frequently receiving several such allegations of abuse of temple properties and fraudulent registration of the documents in respect of the temples properties, non-collection of lease amount is also an

issue, which is to be looked into by the authorities when the provisions of the HR & CE Act unambiguously stipulates that the manner in which the temple properties are to be leased out or dealt with and regarding fixing of fair rent, recovery of rent etc. It is unfortunate that none of the provisions are implemented properly, which resulted in looting of the properties by few greedy men and the persons, who have been involved in such illegalities. There are large scale allegations regarding the administration of temple properties across the State of Tamil Nadu. Recently, there are instances of recovery of properties by the HR & CE Department and the actions would not be sufficient to deal with the issues as a whole.

10. In view of the fact that the properties belong to the temples, which are all illegally dealt with by many persons, require effective coordination with other concerned Departments for recovery. The Authorities Competent shall form a Committee and ensure that the recovery of the temple properties are made in an effective and speedy manner so as to ensure that the properties are protected and maintained for the interest of the temple and to fulfil the desires of the donors as per their wishes.

11. In the present case, the petitioner has taken several steps through revenue authorities and through the authorities of the HR & CE Department. The review meetings were conducted by the District Collectors. However, there is lack of coordination between the Departments and only through joint actions by the Departments, the issues can be resolved in an efficient manner. The illegalities are not only confined to the HR & CE Department. The temple properties are registered in an illegal manner and the documents are executed in a fraudulent manner and illegal mining operations are done running to several crores. Therefore, actions by the Registration Department, Revenue Department, Police Department, Mining and Geology Department, HR & CE Department and other connected Departments are just and necessary for the purpose of effective action for recovery of the temple properties and to recover the monetary loss caused to the temple by way of illegal mining operations or otherwise.

12. In the present case, no doubt, the District Collector has initiated actions for the purpose of collecting the details regarding the temple properties, which were illegally dealt with by the private persons and with the active and passive collusion of the public officials.

13. It is made clear that the public officials, who all are responsible for such collusion, dereliction of duty, negligence or corrupt, are also be prosecuted and all appropriate actions are to be initiated against those public authorities also.

14. Large scale illegalities, fraudulent execution of documents and corrupt practices may not be possible without the knowledge of the Officials of the Department concerned. The active or passive collusion of the public officials cannot be ruld out. Thus, actions are to be initiated against all such officials both under the Criminal Law and under the Government Servants Disciplinary Rules and under the relevant Law applicable for the purpose of recovery of financial losses caused to the temple properties. Unless such stringent and stern actions are taken, it may not be possible to set right the illegalities and frauds occurred in the matter of dealing with temple properties, jewelleryes, belongings etc.

15. This Court is of the considered opinion that a policy decision has been taken by the Government to take over the temples on account of large scale allegations against the Trustees and Administrators of the

temple. It was taken over in the interest of public at large and Hindu Religious and Charitable Endowments Act and Rules are enacted. Therefore, the Government after taking over the temples and enacted law for the purpose of administering and maintenance of temple properties and its belongings and other activities, then the officials of the Department are bound to implement the Act and Rules scrupulously. Unfortunately, scrupulous implementation of the Act and Rules, are lacking for several years, which resulted in looting of the temple properties across the State of Tamil Nadu by greedymen and persons with muscle power and even by politicians. Undoubtedly, such large scale allegations and illegalities may not happen without the collusion of the Department Officials. No doubt, large scale properties belong to the temple have been dealt with an illegal manner and in violation of the provisions of the Act for several years it may be difficult for the Authorities now to immediately restore all such properties. However, consistent and efficient actions are certainly warranted for the purpose of complying with the provisions of the Act and Rules regarding the protection of temple properties, its belongings and to maintain clean administration. The transparent and efficient administration of the Government Departments are the constitutional mandate. After taking over the temples, the Government cannot allow any such illegalities

by any person. In the event of allowing such illegalities to happen in a larger scale, then the Department had failed in its objective under the provisions of the Act and therefore, a change in policy decision may be required. In this context, fixing personal liability on the officials are of paramount importance. The officials not functioning in the interest of the temple are to be identified and their work performance are to be monitored and the Head of the Department is bound to initiate all appropriate actions. If the Head of the Department itself is not functioning efficiently, then the Government has to initiate all appropriate actions. Thus, any lapses or negligence must be viewed seriously.

16. The allegations raised by the petitioner with documents and evidences are serious in nature. Large scale allegations are shocking to the conscience of this Court. Thus, those illegalities and frauds must be brought down and stopped forthwith by initiating all necessary actions. It is not sufficient if the properties are recovered, the financial losses already caused to the temple are also to be recovered by following the procedures as contemplated.

17. In view of the facts and circumstances considered in the aforementioned paragraphs, this Court is inclined to pass the following orders:-

(i) The District Collector, Krishnagiri, is directed to convene a review meeting during the first week of March 2022 in the presence of all concerned Government Department Officials and consider the progress made in the matter of dealing with the illegalities, fraudulent activities, illegal mining etc., allegedly going on in respect of temple properties and the actions already initiated for the purpose of recovery of temple properties and to recover the financial losses caused to the temple.

(ii) The respondents 5 to 16 are directed to initiate swift actions to prevent all the illegal mining operations and consequential illegalities in respect of temple properties and further initiate all necessary actions, including criminal prosecution and civil actions for recovery against all concerned. The actions are to be initiated to cancel the illegal execution of documents or otherwise, if any brought to the notice.

(iii) The respondents 5 to 16 are directed to conduct enquiry wherever necessary in respect of the collusion or corrupt practices of the

public officials in dealing with temple properties and initiate all appropriate actions under Criminal Law and departmental disciplinary proceedings as the case may be and proceed with such cases as expeditiously as possible.

(iv) The respondents 1 to 16 are directed to initiate all necessary steps to prevent any further illegalities, fraudulent execution of documents etc., in respect of temple properties and appropriate guidelines, instructions and directions are to be issued to all the Subordinates as expeditiously as possible.

(v) The respondents 1, 2, 3 and 5 are directed to monitor the actions initiated by the respective Subordinate Officials of the concerned Departments and issue appropriate guidelines, instructions or directions wherever required as the case may be and initiate actions if there is any lapses, negligence or dereliction of duty on the part of the Subordinate Officials.

18. With the above directions, this Writ Petition stands disposed of.

However, there shall be no order as to costs.

01.02.2022

Internet : Yes
Index : Yes / No
Speaking order / Non Speaking order
Vsg/Svn

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