

BEFORE THE COMMISSIONER, H.R.&C.E. DEPARTMENT, CHENNAI-34.

Tuesday the 18th day of December, Two Thousand and Twelve

Present : Thiru P. Dhanapal, M.A.,B.L.,
Commissioner.

A.P.16/2009 D2

Between

1. K. Kandaswami.
 2. K. Subramaniam
 3. P. Veerappan
 4. A. Govindan.
- .. Appellants.

And

1. The Joint Commissioner,
H.R.& C.E Admn. Dept., Salem.
 2. The Fit Person/Executive Officer,
Am. Meenakshi Chokkanathar Temple,
Mettur.
 3. P. Karuppannan.
- ..Respondents.

In the matter of Arulmigu Mariamman, Chengapidariamman Temple, Pazhankottai, Virudhachampatti, Mettur Taluk, Salem District.

Appeal Petition filed under Section 53(5) of the Tamil Nadu HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 21.1.2009 passed in Pro.Rc.No.4802/2008 B2 of the Joint Commissioner, H.R.&C.E. Admn Department, Salem framing charges against the appellants, placing them under interim suspension pending enquiry into the charges and appointing Fit person under Section 53(4) of the Act.

Order in R.Dis. A.P.No.16/2009 (D2) dated 18.12.2012.

The above appeal petition having come on for hearing before me on 20.11.2012. At the time hearing, both the Appellants and their counsel

having been called absent. Upon perusing the connected records, and the matter having stood over for consideration till this day, the following order is made.

ORDER

The above appeal petition has been filed against the order of the Joint Commissioner, HR&CE Admn. Department, Salem passed in Proc.Rc.No.4802/2008 B.2 dated 21.01.2009, framing as many as 10 charges and placed all the Hereditary trustees under suspension under Section 53(4) of the Act and appointed the second respondent as Fit Person who is an outsider from the members of the family of the Hereditary trustees-cum-poojari of the temple pending enquiry into the charges. Most of the charges relates to mismanagement of temple properties and inaction of the appellant to renovate the temple.

2. The appellant contended that the Joint Commissioner on the report received from the Assistant Commissioner, H.R.&C.E. Admn. Dept., Salem framed charges and placed all the Hereditary Trustee under suspension. It was only the third Respondent/ Karupannan, who acted against the interest of the Community and village out of malice and misunderstanding and the Joint Commissioner, has misdirected himself without applying his mind factually and legally by accepting the report of the Assistant Commissioner without ascertaining in a proper enquiry. The charges leveled against them are not grave but are for usual lapse which does not warrant suspension. The Joint Commissioner ought not to have placed all the trustees including the complainant under suspension and appoint a stranger as fit person.

3. The above appeal petition came up for hearing on 09.10.2012, 30.10.2012 and 20.11.2012. But, none appeared for the enquiry on the said dates consecutively. The appellants and their counsel remained ex-parte and called absent. I have perused the records. In the impugned order all 5 Hereditary Trustees were placed under interim suspension. But only 4 of

them filed this appeal. On perusal of the impugned order, it is evident that consensus ad idem is completely absent among the Hereditary Trustees affecting the day to day administration of the temple. Due to this, trust board meeting was not held and Chairman Board of Trustees election was not conducted. The trustees failed to protect the temple properties, but they utilized the property for their personal gain. The appellants herein did not furnish any valid explanation to charges. It is relevant that under section 53(4) of the Act, the appropriate authority may place the trustee under suspension and appoint fit person to discharge the duties and perform the functions of a trustee. Hence, the Joint Commissioner has rightly passed the impugned order which is well within the ambit of law. I find no infirmity or illegality in the said order. Therefore, the impugned order is confirmed and the appeal is dismissed as premature as the appellants have remedy before the authority by submitting his explanation and facing the disciplinary proceedings. The stay granted on 29.10.2009 till 5.1.2010 is vacated.

Therefore, without expressing any opinion about the gravity of the charges, the appellants are directed to submit their explanation if not already submitted, within 15 days from the date of receipt of the copy of order. If any such explanation is received, the Joint Commissioner is requested to consider the same, conduct such enquiry affording the appellants and other persons having interest if any an opportunity of being heard, and pass final orders on the disciplinary proceedings as expeditiously as possible on merits and in accordance with law.

With the above direction the appeal petition is dismissed.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.

To

1. The Appellant through Thiru E. Ponnappa Pillai, Advocate, 16, Muthumudali Street, Purasawakkam, Chennai.7.
2. The Executive Officer, Am. Meenakshi Chokkanathar Temple, Mettur, Mettur Taluk, Salem District.
3. Thiru P. Karuppannan S/o Ponnusami, Pazhankottai, Virudachampatti, Mettur Taluk, Salem District.

Copy to:

4. The Joint Commissioner, HR&CE Admn. Department, Salem.
5. The Inspector, HR & CE Admn.Department, Mettur.
6. The Assistant Commissioner, HR&CE Admn. Department, Salem.
- 7&8.. Extras.