

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

Friday, the 11th day of October, Two Thousand and Thirteen.

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

A.P. 87/2010 D2

Between.

V. Chokkalingam Pillai S/o Vedaiya Pillai. ... Appellant.

And

- 1. The Joint Commissioner, HR & CE Dept.,
Thanjavur.**
- 2. The Assistant Commissioner, HR & CE
Admn.Dept., Nagapattinam. ... Respondents.**
- 3. The Inspector, HR & CE Admn.Dept.,
Vedaranyam.**
- 4. C. Karthikeyan ..Impleading
Petitioner/
Respondent**

**In the matter of Arulmigu Mohini Mariamman Temple,
Thanikottakam, Vedaranyam Taluk, Thanjavur 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
4.10.2010 of the Joint Commissioner, HR & CE Admn.Department,
Thanjavur in Pro. Rc.No. 660/09 C1 in ordering the removal of
hereditary trustee under Section 53 (3) of the Act.**

Order in D.Dis. A.P. 87/2010(D2) Dated : 11.10.2013.

The above Appeal Petition having come for final hearing before me on 27.09.2013 in the presence of Thiru S. Sathiamurthi, Counsel for the appellant and Thiru V.S. Ramadoss, Counsel for the 4th Respondent. Upon hearing their arguments and 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 dated 9.10.2010 of the Joint Commissioner, Thanjavur in ordering the removal of the hereditary trustee under Section 53 (2) of the Act. The appellant was one of the hereditary trustees of the said temple. The Joint Commissioner framed charges under Section 53 (2) of the Act and dismissed the appellant from hereditary trusteeship after conducting a detailed enquiry. The charges are related to misappropriation of temple funds, non-maintenance of proper accounts and failed to remit the departmental dues and failed to lease out the properties in public auction.

2. The appellant contended that the order of the Joint Commissioner is in violation of Section 53 (3) of the H.R. & C.E.Act since no charge was framed before issuing show cause notice and no opportunity was given to the appellant for meeting the charges and testing of evidence as contemplated under Section 53 (3) of the Act. The Joint Commissioner only relied upon the report of the Assistant Commissioner who has not conducted any enquiry. The Joint Commissioner failed to see that the dismissed Trustee S. Chidambaram did not hand over the charge to the appellant after the year 2000. The

various charges framed against the appellant have no basis. The Joint Commissioner has not given separate and independent finding regarding all the charges against the appellant. The Joint Commissioner has not applied his mind while passing the impugned order.

3. I heard Thiru S. Sathiamurthi, Counsel for the appellant and Thiru V.S. Ramadoss, Counsel for the 4th Respondent and perused the relevant records. The counsel for the appellant argued that the Joint Commissioner passed the impugned order without considering the order dated 19.2.2010 passed by the Commissioner in A.P. 72/2010. The above appeal petition was filed by the appellant herein challenging the suspension order issued by the Joint Commissioner. The above appeal was disposed by the Commissioner on 19.2.2010. In the said order, the Commissioner has observed as follows. As the appellant has been placed under suspension in gross violation of the principles of natural justice the impugned order is hereby set aside and the matter is remanded to the Joint Commissioner, Thanjavur for a fresh enquiry. Charges should be specified. The charges framed under the impugned order particularly Sl.No.5, 6, 7, 8 and 9 relate to inaccuracy in maintaining the accounts and petty negligence of duty on maintaining and sending statutory register and statutory returns and the period to which they relate has not been clearly mentioned. Hence, the Joint Commissioner is directed to re-examine the matter and if necessary hold an enquiry". But the Joint Commissioner passed the impugned order without complying the directions issued by the Commissioner. Even the Joint Commissioner had not referred the order passed by the Commissioner in the impugned order. It is unfortunate on the part of the Joint Commissioner without applying her mind, passed such an erroneous order.

Therefore, the impugned order deserved to be set aside. Accordingly the order dated 9.10.2010 of the Joint Commissioner, Thanjavur is hereby set aside and the matter is remanded to the Joint Commissioner for a fresh enquiry as per law and in accordance with the order dated 19.2.2009 passed by the Commissioner in A.P. 72/2009. With the above direction, the appeal petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Superintendent

To

1. The Appellant through Thiru S.Sathiamurthi, Advocate, 154, Adl.Law Chambers, High Court Buildings, Chennai. 104.
2. The 4th Respondent through Thiru V.S. Ramadoss, Advocate, No.350, Law Chambers, High Court Buildings, Chennai.104.

Copy to:

3. The Joint Commissioner, HR & CE Admn.Dept., Thanjavur.
4. The Inspector, HR & CE Admn.Department, Vedaranyam.
5. The Assistant Commissioner, HR&CE Admn.Department, Nagapattinam.
6. Extra.