

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

Tuesday the 11th day of November, Two thousand and Fourteen.

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

A.P. 19/2014 D2

Between

P. Athimuthu Nadar,
S/o Ponnaiya Nadar.

...Appellant

And

1. The Joint Commissioner,
H.R.& C.E. Department, Tirunelveli.
2. Vivekanandan S/o Thangaraj Nadar.
3. Jayaraj S/o Nangai Nathan Nadar.
4. Manickadurai S/o Selvaraj Nadar.
5. Ponrangan, S/o Aiyathurai Nadar.
6. Thamarai Pushpam, S/o Ramachandran. .. Respondents

In the matter of Arulmighu Swamy Chidambareswarar Temple,
Chettiapathu, Thiruchendur Taluk, Thoothukudi District.

Appeal Petition filed under Section 26(5) of the Tamil Nadu H.R.&
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated
12.12.2013 of the Joint Commissioner, H.R.&C.E. Admn.Department,
Tirunelveli in disqualifying the petitioner under Section 26 (e) of the Act.

Order in D.Dis. A.P.19/2014 (D2) dated : 11.11.2014.

The above Appeal Petition having come on for final hearing before
me on 12.8.2014 in the presence of Thiru R. Vijayaraghavan, Counsel for
the appellant and Thiru R. Amardeep, Counsel for the Respondents 2-6.
Upon hearing their arguments and perusing the connected records the
following order is made:-

ORDER.

The above appeal petition filed under Section 26 (5) of the Act
against the order dated 12.12.2013 of the Joint Commissioner,
Tirunelveli in disqualifying the appellant under Section 26 (e) of the Act.

2. The Appellant contended that the rejecting the nomination of the Appellant without assigning any reason is illegal and not sustainable in the eye of law an fact. It is violative of Article 14 of the Constitution of India and the same is against the principle of natural justice. The oral statement of the Respondent claims that there is a complaint against the appellant, so his nomination has been rejected. But, the respondent did not enquire upon the same by giving due opportunity to the appellant by giving the copy of the complaint to the appellant. The Respondent had mentioned in its order dated 12.12.2013 that the appellant failed to pay the rent and thus, there is a sum of Rs. 30/- to be paid. It is very shocking to know that because there is no pending due from the appellant. It is very important to mention here that his candidature for 2009-2011 has been accepted by the same Respondent and the appellant has been selected as member of trust. He discharged his duty till the recent election. For sake of argument, if there is any pending due, how the respondent would not have been issued notice to demand the same. Thus, the respondent made this false allegation to make him disqualified the candidature of the appellant.

3. In the counter affidavit, the Respondents 2 to 6 contended that the election notification which was widely published in the newspaper itself shows the eligibility conditions for the persons who want to contest the election for the post of Trustees of the temple and the nomination of the appellant was rejected by the Respondent authority as he is not fulfilled the fourth eligibility condition as prescribed. The whole process of election for Selection of 5 Trustees to Arulmighu Swamy Chidambareswarar Temple, Chettiapathu has been completed, following the procedure prescribed and the Respondent 2 to 6 were selected as trustees and in the whole procedure and in the meeting conducted for the 30 co-sharers family on 18.11.2013 for passing the proceeding for conduct of the election, the appellant also present and put his signature in the proceedings, but now when his nomination was rejected for the valid grounds as the appellant is disqualified under the eligibility

conditions put forth in the Election Notification and the appeal has to be dismissed as devoid of merits.

4. I heard Thiru P. Vijayaraghavan, Counsel for the appellant, Thiru R. Amardeep, Counsel for the Respondents 2 to 6 and perused the relevant records. The appellant was disqualified under Section 26 (e) of the Act for being appointed as a trustee of the suit temple on the ground that he is tenant of the land in S.No. 30/1 belongs to the temple and he is having arrear of Rs. 30/-. But the appellant denied that he is not a defaulter. During the course of enquiry the appellant has produced the copy of the Free patta issued by the Revenue Department in the year 1993. But the appellant failed to disclose the above fact in the appeal petition. On the other hand the Executive Officer of the temple has produced various documents to prove that the appellant is a tenant of the temple. One of the document is a rental receipt No. 1234 dated 23.11.1989 issued by the temple. Wherein it was mentioned that

“இன்னாரிடமிருந்து பொ. ஆதிமுத்து
நெல்/தொகை ரூ. 12/- (பன்னிரண்டு மட்டும்)
ச.எண். 30/1 செண்ட் 3-க்கு காலிமனை வாடகை
பசலி 1396-க்கு - ரூ. 3/-
பசலி 1397-க்கு - ரூ. 3/-
பசலி 1398-க்கு - ரூ. 3/-
பசலி 1399-க்கு - ரூ. 3/-

ரூ.12/-
-----.”

Further in the place of remitter’s signature, it was signed as “பொ. ஆதிமுத்து”. I am also compared the said signature with the signature put by the petitioner in the Trustees application, both are found to be similar. Another document is copy of the Judgment dated 28.8.1992 made in A.S. 606/91 made by A.D.J.M., Thuthukudi. The above suit filed by two persons praying to issue permanent injunction restraining the 1st defendant/Executive Officer from lease out the properties to

defendants 2 to 35. In the said suit the appellant was arrayed as 31st defendant. In the said suit it was held that the property belongs to the temple. Further in the said case, the lease agreement between Athimuthu and the temple was marked as Defendant side Ex.1. Further in the year 2008 also the appellant has paid rent vide receipt No. 4986 dated 5.9.2008. Therefore all the above documents clearly established that the petitioner is a tenant under the temple. But the petitioner fraudulently obtained patta to the temple land and also suppressed the above facts. Previously, the petitioner was mistakenly appointed as trustee of the temple. Hence, that mistake should not be repeated and it could not be a valid ground to set aside the impugned order.

Therefore, for the foregoing reasons stated supra, I find no infirmity in the order passed by the Joint Commissioner, Tirunelveli and it is liable to be confirmed. Accordingly, the order dated 12.12.2013 of the Joint Commissioner, Tirunelveli is hereby confirmed and the appeal petition is dismissed as devoid of any merit.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.

To

1. The Appellant through Thiru R. Vijayaraghavan, Advocate, No.1, Janakiraman Street, West Mambalam, Chennai.33.
2. Respondents 2 to 6 through Thiru R. Amardeep, Advocate, No.80, Addl.Law Chamber, High Court, Chennai.104.

Copy to:

3. The Joint Commissioner, HR&CE Admn. Dept., Tirunelveli.
4. The Assistant Commissioner, HR & CE Admn.Dept., Pudukottai.
5. The Inspector, HR & CE Admn.Dept., Tiruchendur.
6. Extra.