

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

Monday the 12th day of May, Two thousand and Fourteen.

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

A.P.1/2014 D2

Between.

T. Othayandi.

.. Appellant

And

The Joint Commissioner,
H.R. & C.E.Department,
Tirunelveli.

. Respondent.

In the matter of Arulmighu Chidambareswarar Temple,
Chettiapathu, Tiruchendur 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.Dept. Tirunelveli in disqualifying the appellant under Section 26 (h) of the Act.

Order in D.Dis. A.P.1/2014 D2 dated : 12.5.2014.

The above Appeal petition having come on for final hearing before me on 7.2.2014 in the presence of Thiru R. Vijayaraghavan, Counsel for the appellant and the Joint Commissioner/Respondent. Upon hearing the arguments and having perused the connected records and the matter having stood over for consideration till this day, the following order is passed.

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(h) 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 eyes of law and fact. It is violative of Art.14 of the Constitution of India and the same is against the principle of natural justice. The respondent had mentioned in its order dated 12.12.2013 that the Appellant failed to return the key when he was as per Na.Ka. 8605/2011 A2 dated 12.01.2012. Thus it incurred Rs. 20,680/- as loss and therefore the Respondent rejected the nomination of the Appellant. But the Respondent very conveniently failed to record many facts which happened regarding the same and thus which would clearly show the biased approach of the Respondent. Because against the above mentioned Na.Ka.No. 8605/11 A2 dated 12.1.2012 the Appellant filed a Writ petition vide W.P.(MD) No. 17101/2013 before the Hon'ble High Court. The Hon'ble High Court was not pleased to issue the order as prayed by the Appellant. But the Hon'ble High Court granted liberty to the Appellant to approach your good forum by its order dated 18.10.2013. Thus the Appellant sent a letter dated 19.10.2013 to the Executive Officer explaining his position regarding retaining the key and the appellant made a copy of the Respondent herein and its intervention. But the Respondent did not sent any communication saying rejection or acceptance of the claim of the Appellant. When the Appellant has the Respondent about the right of the erstwhile trust till the selection of new trustee. The respondent himself admitted vide its letter dated 22.12.2011 saying the Appellant will be invited for all the function of the Temple till the selection of new president. Therefore, it is clear that the bonafide intention of the Appellant to hand over the key after the election and the board of trustees is legitimate one and the same cannot be rejected unless a proper rejection order is passed.

3. I heard Thiru R.Vijayaraghavan, Counsel for the appellant and respondent/Joint Commissioner and perused the relevant records.

The appellant's nomination form for the election of trustees to the above said temple was rejected on the ground that he had acted adverse to the interest of the Institution. Previously the appellant was appointed as Trustee and elected as Chairman Board of Trustees of the temple. His tenure came to end on 19.11.2011 by efflux of time and the fit person has been appointed under Section 47(1) (c) of the Act by the Government in G.O. No.9 dated 12.1.2012. But the appellant failed to hand over the charge to the Fit Person. He filed W.P.(MD) No. 4286/2012 challenging the appointment of Fit Person. The said Writ Petition was dismissed by order dated 30.8.2012. The said order was also upheld by the Hon'ble Division Bench of the High Court by order dated 22.7.2013 in W.A.(MD) No. 690/2012. Subsequently the fit person has sent a communication dated 10.10.2013 to the appellant requesting him to hand over the keys. But the petitioner filed another Writ Petition in WP (MD) 17101/2013 challenging the said communication. The said Writ Petition was also dismissed by order dated 18.10.2013.

4. Since, the appellant declined to hand over the charge, the temple administration suffered much hardship. The fit person not able to open the Hundials in time, which in turn leads to scarcity of funds to meet out the day to day expenses of the temple. Because of this, the Commissioner has ordered to break open the Hundials and deposit the proceeds in the temple accounts. The appellant himself admitted in the nomination form and in this appeal petition, that he has not hand over the charge to the fit person.

5. From the above facts, it is clear that the appellant disobeyed the lawful orders issued by the competent authority and acted adverse to the interest of the temple; thereby he suffered disqualification under Section 26 (h) of the Act.

Therefore, I find no infirmity or illegality in the order passed by the Joint Commissioner, Tirunelveli. 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.

Copy to:

- 2. The Joint Commissioner, HR&CE Admn.Dept., Tirunelveli.**
- 3. The Assistant Commissioner, HR & CE Admn.Dept., Thoothukudi.**
- 4. The Inspector, HR & CE Admn.Dept.,Kulasekaranpattinam.**
- 5. Extra.**