

P.Chandran Vs. the Joint

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Court : Chennai

Decided On : Nov-16-2011

Judge : M.Jaichandren, J.

Acts : Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 - Section 56(1)

Appeal No. : W.P.(MD)No.10692 of 2009 and M.P.(MD)Nos.1 to 3 of 2009 and 1 of 2010

Appellant : P.Chandran

Respondent : The Joint

Judgement :

1. The petitioner was working as a Junior Assistant in Arulmighu Ramanathaswamy Thirukovil, Rameshwaram. In this Writ Petition, he has come forward to challenge an order dated 08.12.2007 passed by the Joint Commissioner -cum- Executive Officer of the temple, suspending the petitioner from service. The suspension was made on the ground that the Vigilance and Anti Corruption Department have registered a criminal case against the petitioner in Crime No.5 of 2003 and the matter is pending trial before the learned Chief Judicial Magistrate, Ramanathapuram, in C.C.No.11 of 2007. Therefore, by exercise of power under Section 56(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, he was placed under suspension and the

reasons for suspension were set out stating that within the period from 01.01.1989 to 28.02.1999, the petitioner was accumulating wealth of Rs.20 lakhs, which is clearly disproportionate to his known source of income and by accumulating such wealth, he has caused disrepute to the temple's image. It was also held that the petitioner's continuance in service pending the criminal case will be detrimental to the interest of the temple.

2. When the matter came up for admission, this Court, while ordering notice of motion, granted an order of interim stay on 26.10.2009, stating that there was no progress in the criminal case and P.W.1 alone has been examined. Therefore, by referring to an order of a Division Bench of this Court in State v. K.A.Joseph reported in AIR 1970 Madras 155, interim stay was granted. It is not clear as to how such an interim order can be granted.

3. Aggrieved by the grant of stay, the Joint Commissioner -cum- Executive Officer has filed a vacate stay application in M.P.(MD)No.1 of 2010, together with a supporting counter-affidavit dated 29.03.2010. In the counter- affidavit, it is stated that the continued service of the petitioner, who is facing a criminal case, before the learned Chief Judicial Magistrate, will bring disrepute to the temple's image and there is no case for grant of any interim order. Since the suspension is based on serious charges and that too, the petitioner has been charge sheeted before the appropriate criminal Court, it is not a fit case, which called for interference by this Court in the order of suspension.

4. When once there is no prima facie case for maintaining the Writ Petition, the question of grant of interim stay on the basis of the order of the Division Bench in AIR 1970 Madras 155 also does not stand to reason. Subsequent to the Division Bench order, in the last 41 years, there are number of judgments of the Supreme Court on the very same issue. Even the Division Bench order has been quoted as out of context. This Court did not grant stay in that case at the first instance. Only when a direction was given to frame a charge sheet, within a time frame and by which time, charge sheet was not framed, this Court granted an order of interim stay against the suspension order for the disobedience of the orders passed by the Court. When the same was taken on appeal, the Division Bench merely said

that the authorities should be careful enough to make orders of suspension and if any improper suspension is made, the same is liable for interference. Even in that case, the Division Bench held that if the Court interferes with the order of suspension, it should see that the persons are posted not in the same place and liberty must be given to the authorities to post the person to far off place. In any event, it is unnecessary to go into the validity of the interim order, as the Writ Petition itself is liable to be dismissed. Further, the petitioner, being a temple servant, cannot maintain a Writ Petition before this Court, merely because the order is passed by the Executive Officer. On the contrary, the orders of the Executive Officer are only based upon the temple administration and the persons, who are aggrieved by orders passed by the Executive Officer, have got a remedy by way of filing an appropriate appeal before the appellate authority under the said Act. There is no case made out to entertain the present Writ Petition. Hence, the Writ Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

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