

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2012

CORAM

THE HONOURABLE MR.JUSTICE K.CHANDRU

W.P.No.14692 of 2012
and
M.P.Nos.1 and 2 of 2012

Prem Anand,
Hereditary Trustee,
Sri Vengeeswarar Alagarperumal
and Nagathamman Koil Devasthanam,
Vadapalani,
Chennai-26.

.. Petitioner

Vs.

The Commissioner,
H.R.&C.E.,
Uthamar Gandhi Road,
Nungambakkam,
Chennai-34.

.. Respondent

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorari to call for the records pertaining to the impugned circular of the respondent vide Na.No.50838/2008 K-4, dated 27.03.2012 and quash the same.

For Petitioner : Mr. V. Manohar

ORDER

The petitioner has filed the present writ petition seeking to challenge the impugned circular, dated 27.03.2012 issued by the Commissioner of the Hindu Religious and Charitable Endowment Department. By the impugned circular dated 27.03.2012, the Commissioner of HR&CE informed all Zonal Joint Commissioners and Assistant Commissioners of the HR&CE Department that in respect of temples in which hereditary trustees are administering the temple as well as where there are scheme decrees, the trustees of the concerned temple were appointed as Public Information Officers. This became necessary because of the delay that caused in getting information from those temples for an information seeker and that a recommendation was also made by the Tamil Nadu Information Commission.

2.The contention raised by the petitioner was that a temple coming under the purview of the HR&CE department is not an administrative unit or an office of a public authority. Therefore, it cannot be brought under the definition of Section 2(h) of the Right to Information Act. Reliance was placed upon a judgment of the Kerala High Court in W.P.(C)No.30470 of 2008, dated 11.3.2011 in Bhanunni Vs. Commissioner, Hindu Religious and Charitable Endowments (Admn.) Department reported in 2011 (2) KLT 312.

3.It is seen from the records that earlier one J. Rajendren sought for certain information from the joint Commissioner of the HR&CE Board, Chennai. The said authority in turn had asked the Trustee to furnish the information. When the said direction was given, the petitioner had filed a writ petition before this court being W.P.No.7767 of 2009. The said writ petition was dismissed. As against the same, the petitioner had preferred a writ appeal being W.A.No.1730 of 2009. A division bench of this court by an order dated 03.12.2009 had disposed of the writ appeal. In that order, the division bench had observed as follows :

"2....All that is happened is that the second respondent sought some information from the first respondent about the appellant and the land owned by the concerned temple. The appellant has submitted that information to the first respondent. Thereafter, this writ petition has been filed by the appellant submitting that the appellant is not bound to give any such information. The first respondent may furnish a reply to the second respondent based on the information submitted by the appellant. There is no need to interfere with the order passed by the learned Single Judge....."

4.It is the case of the petitioner that a temple cannot be brought under the purview of the RTI Act. Therefore, nominating the hereditary trustee as a public information officer under the purview of the Act is unwarranted. This court is unable to accept the said contention. In the present case, the temple is a public institution. Merely because it is administered by an hereditary trustee, the public character of a temple will not disappear. Temples are clearly brought under the HR&CE Act and further, public collections are made for conducting various activities of the temple including rituals. The State Government also spends huge amounts every year for administering the department to manage the temples and also releases various grants for renovation of the temples including special grants for conducting Kumbaghishekams periodically. When that is so, it cannot be said that the temple is a private institution for the purpose of the RTI Act. In fact, if the temple is substantially financed by the State either in the form of administrative expenses or in the form of non recurring expenditure, certainly, it would be the institution covered by the provisions of the Act. Under the RTI Act, even a private body substantially funded by the State is covered by the RTI Act. When an information is sought for and if the activities of the temple will be kept secret, then it may also result in gradual deterioration of the temple administration. It cannot be contended that the temple activities are private activities and not covered by the provisions of the RTI Act.

5.Further, once it is held that the temple is covered by the provisions of the RTI Act, certainly the unit will have to have a public information officer. In respect of hereditary temple as well as a unit run by scheme decrees, the information is solely available only with the trustees or the trust board. It is too much for the executive officer to seek an information from those trustees and thereafter pass on the information to an information seeker. As rightly found in the impugned order, having dual authority will only create bottlenecks in the free flow of the information. As to what information is to be provided is also circumscribed by the provisions of the RTI Act. Hence they can always take such defences as are open to them. Even if the information officer direct an information to be furnished, that can be subject matter of further appeals to the appellate authority as well as second appeal to the Information Commission.

6.Under these circumstances, this court to not think that any case is made out to interfere with the impugned circular. Hence the writ petition will stand dismissed. No costs. Consequently connected miscellaneous petitions stand closed.

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To

The Commissioner,
H.R.&C.E.,
Uthamar Gandhi Road,
Nungambakkam,
Chennai 34