

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 33903 of 2014 (K)

PETITIONER(S):

**GIRIDHARAN M., AGED 54 YEARS,
S/O.RAMAN, EXECUTIVE OFFICER,
SREE NHANGATTIRI BHAGAVATHY DEVASWOM,
P.O. NHANGATTIRI- 679 314.**

**BY SRI.M.RAMESH CHANDER, SENIOR ADVOCATE.
ADVS. SRI.ANEESH JOSEPH,
SMT.DENNIS VARGHESE.**

RESPONDENT(S):

- 1. MALABAR DEVASWOM BOARD,
REPRESENTED BY ITS COMMISSIONER,
KOZHIKODE- 673 001.**
- 2. THE COMMISSIONER,
MALABAR DEVASWOM BOARD, KOZHIKODE- 673 001.**
- 3. THE ASSISTANT COMMISSIONER,
MALABAR DEVASWOM BOARD,
TIRUR, MALAPPURAM- 676 101.**
- 4. SURESH.T.,
S/O.NARAYANAN EZHUTHACHAN (LATE),
THOTTAPPAYA VEEDU, NHANGATTIRI, PATTAMBI- 679 303.**
- 5. SREENATH. P.,
S/O.SANKARANARAYANAN. P,
PALOLI HOUSE, THEKKEVAVANNUR P.O.,
KATTILMADAM - 679 533.**

**R1 TO R3 BY ADV. SRI.PARTHASARATHY.B, SC.
R4 BY ADVS. SRI.SANTHEEP ANKARATH,
SRI.ARUN MATHEW VADAKKAN.
R5 BY ADVS. SMT.K.LATHA,
SMT.V.T.KAVITHA.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 COPY OF THE NOTICE DATED 01/12/2012.
- EXHIBIT P2 COPY OF THE NOTICE.
- EXHIBIT P3 COPY OF THE ORDER OF THE 3RD RESPONDENT APPOINTING RESPONDENTS 4 AND 5 AS NON HEREDITARY TRUSTEES DATED 02/12/2014.
- EXHIBIT P4 COPY OF THE REPRESENTATION SEND BY FAX THROUGH PROPER CHANNEL DATED 11/12/2014.
- EXHIBIT P5 COPY OF THE REPRESENTATION SENT ON 01/12/2014 TO THE 3RD RESPONDENT.
- EXHIBIT P6 COPY OF THE RESIGNATION LETTER TO THE COMMISSIONER, MALABAR DEVASWOM BOARD DATED 25/02/2015.
- EXHIBIT P7 COPY OF THE CERTIFICATE ISSUED BY THE ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD.
- EXHIBIT P8 COPY OF THE ORDER ISSUED BY ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD DATED 07/02/2015.
- EXHIBIT P9 PHOTOGRAPHS DISPLAYED THE FLEXI BOARD OF THE 5TH RESPONDENT IN VARIOUS JUNCTIONS OF HIS HOME TOWN.

RESPONDENT'S EXHIBITS:-

- EXT.R4A COPY OF THE ORDER BY WHICH THE EXECUTIVE OFFICER HAS BEEN APPOINTED IN THE TEMPLE AND DATED 18/12/2003.
- EXT.R5A COPY OF THE MINUTES OF THE MEETING DATED 12/12/2014 WHICH WS CONDUCTED AT DEVASWOM OFFICE.
- EXT.R5B COPY OF THE ORDER NO.H 1092/2011/MDB DATED 25/02/2011.
- EXT.R5C COPY OF THE SAID POLICE COMPLAINT DATED 14/03/2011 LODGED BY EXECUTIVE OFFICER OF MULAYANKAVU BHAGAVATHY TEMPLE AGAINST THE PETITIONER.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P.C. No.33903 of 2014

Dated this the 3rd day of July, 2015

JUDGMENT

The petitioner is aggrieved with the appointment of the respondents 4 and 5 in the above writ petition. The petitioner admittedly is an Executive Officer, appointed under the Madras Hindu Religious and Charitable Endowments Act, 1951 [for brevity, the Act of 1951], whose conditions of service is regulated by Section 100(2)&(X)(ii). The petitioner challenges the appointment of the respondents 4 and 5, which has been made pursuant to applications invited under Ext.P1. The objection against the 4th respondent's appointment no longer survives, since he has resigned. The objection against the 5th respondent's appointment is on the basis of Clause 3(g) of Ext.P1, which disentitles a person actively engaged in politics and who holds an official post in any political party, from seeking appointment.

2. The contention raised by the Board, as also the learned counsel appearing for the 5th respondent, is that, the

petitioner does not have the *locus standi* to challenge the orders of the Malabar Devaswom Board, under whom the petitioner is a paid employee, is expected to implement the orders of the Board. This Court finds considerable force in the aforesaid submission. The expression 'Executive Officer' as has been defined, under the Rules aforementioned, includes any paid officer appointed under the Scheme settled or deemed to be settled under the Act provided he is the highest executive authority-in-charge of the Administration of the religious institutions.

3. The learned Senior Counsel appearing for the petitioner however would rely on the certificates appended at Exts.P7 & P8 to assert that he is authorised and entitled to sue and be sued on behalf of the said temple properties. In the present case, the petitioner has not filed the above writ petition on behalf of the said Temple, but in his individual capacity. Further the challenge is against the appointment of a non-hereditary trustee to the Temple, which appointment has been made by the Board, whose orders, the Executive Officer is enjoined upon to execute. The Executive Officer has to

implement the orders of the Board and cannot seek to challenge the same under Article 226, unless it prejudices his services in the Temple. Welfare of the Temple is primarily vested with the Board and the Executive Officer cannot be said to have any concern over that of the Board, a statutory body conferred with the power of administering the affairs of the temple and supervising it. In such circumstances, this Court does not find any reason to hold that the petitioner has the *locus standi* to file the above writ petition.

4. Further, the Board is said to have conducted sufficient enquiries to appoint the 5th respondent as a non-hereditary trustee of the Temple. The petitioner only relies on a photograph produced at Ext.P9 to contend that the 5th respondent is the office bearer of a political party. No reliance can be placed on such photograph. In any event, the Board has filed a statement, by which it has been stated that the Inspector of the Board had conducted enquiries and it is revealed that the 5th respondent is not an active politician.

In such circumstances, this Court does not find any reason to interfere with the action of the Board. However, with

respect to the contention that the 5th respondent has been appointed as a Managing Trustee, even the Board has a contention that the same has to be approved by the Board, definitely the 5th respondent's appointment as the Managing Trustee would depend upon the approval issued by the Board.

The writ petition would stand dismissed. No costs.

Sd/-

K. VINOD CHANDRAN, JUDGE

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