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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.1141 of 2015

and MP (MD) No.1 of 2015

Sozhia Maruthuva Mandagapadi
Kattalai Trust, Rep by its Chairman,
Board of Trustee, A.Sornavel
D.No.106, 107, Vani Vilas Meedu,
Dindigul Town, Dindigul District. ... Appellant/Petitioner

Vs.

1.The Joint Commissioner,
HR & CE Department, Madurai.
2.The Executive Officer/Fit Person,
Arulmigu Kaala Katheeswarar Thirukoil,
Dindigul. ... Respondents/Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 23.09.2015 made in W.P.(MD)No.15699 of 2015.

Prayer in WP(MD). 15699/ 2015 :

Petition filed under Article 226 of the Constitution of India, for the issue of a Writ of Certiorari of India, calling for the records relating to the impugned order bearing Se.Mu.Na.Ka.No.1479/2010/Aa1 dated 22.08.2015 passed by the 1st respondent and quash the same.

For Appellants : Mr.G.R.Swaminathan
for Mr.T.Antony Arulraj

For 1st Respondent : Mr.A.K.Baskarapandian,
Special Government Pleader,
takes notice

For 2nd Respondent : Mr.M.Muthu Geethaya
takes notice

JUDGMENT

(Judgment of the Court was delivered by **V.RAMASUBRAMANIAN, J**)

<https://hcservices.ecourts.gov.in/hcservices/>
This writ appeal arises out of an order passed by the learned Judge dismissing a writ petition filed by the appellant, questioning the appointment of a fit person to an endowment.



2. Heard Mr.G.R.Swaminathan, learned counsel appearing for the appellant. Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the first respondent and Mr.M.Muthugeethaiyan, learned counsel takes notice for the second respondent.

3. The Sozhia Maruthuva Mandagapadi Kattalai Trust is an endowment listed in terms of Section 46 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. A scheme for the administration of the endowment was framed by an order dated 26.11.1993 passed in O.A.Nos.5 of 1987 and 25 of 1989 by the Deputy Commissioner, HR & CE. As per the said scheme, 13 families of Sozhia Maruthuva Community will be given opportunities to make applications to be part of the board of trustees. This was happening periodically.

4. The then Joint Commissioner passed an order dated 09.03.2010 appointing three persons as trustees for a period of two years. The appellant was in turn elected as the chairman of the board of trustees.

5. After the tenure of office of the trustees was over, the first respondent appointed the second respondent as a fit person. The appointment of the fit person was made by the order dated 22.08.2015.

6. Challenging the said order, the appellant filed a writ petition in W.P(MD)No.15699 of 2015. That writ petition was dismissed by the learned Judge on the ground that their tenure had already expired. It is as against the said order, the trustee has come up the above writ appeal.

7. The main issue raised before the learned Judge by the appellant was that they were not issued with a notice before the fit person was appointed. But the respondent took a stand that since the tenure of the trustees appointed by the order dated 09.03.2010 was already over, there was no question of issue of any notice.

8. Though in the appeal, the appellant has raised several issues regard to the procedure contemplated for the appointment of fit person, we are of the considered view that so long as the scheme framed way back in 1993 is in force, the issue could be resolved by the competent authority conducting an election and appointing new set of trustees within a time frame. That alone, will bring to an end the disputes if any. The appointment of a fit person is always contemplated to be a stopgap arrangement and such stopgap arrangement cannot be for a long period of time. Therefore, without expressing any opinion on the merits, the writ appeal is disposed of directing the first respondent to appoint a new set of trustees as per the scheme framed on 26.11.1993 in O.A.Nos.5 of 1987 and 25 of 1989 within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar

/True Copy/



To
1. The Joint Commissioner,
HR & CE Department,
Madurai.

2. The Executive Officer/Fit Person,
Arulmigu Kaala Katheeswarar Thirukoil,
Dindigul.

+1cc to M/S. T. Antony Arulraj, Advocate in SR.No. 64632

+1cc to M/S. A.K. Baskara Pandian, Advocate in SR.No. 64301

+1cc to Special Government Pleader in SR.No. 54528.

TS/04.11.2015/3P-6C/AN-MP/SAR II

Writ Appeal (MD) No.1141 of 2015

02.11.2015