

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.14402 of 2018 and
W.M.P.Nos.17002 & 17003 of 2018

Punithavalli

... Petitioner

Vs.

- 1.The Secretary to Government,
Tourism, Culture and Endowment Department,
Fort St.George, Chennai.
- 2.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam, Chennai - 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Villupuram.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Villupuram.
- 5.The Assistant Commissioner/Executive Officer,
Arulmigu Angalamman Thirukoil,
Melmalayanur, Villupuram District.
- 6.Arulmigu Angalamman Thirukoil,
Melmalayanur, Villupuram District,
rep by its Board of Trustees.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified Mandamus calling for the records of the 2nd respondent pertaining to Na.Ka.No.62999/2017/A1 dated 10.01.2018, quash the same and consequently, direct the respondents to consider the petitioner's representation dated 25.04.2018.

For Petitioner : Mr.A.Palaniappan

For Respondents : Mr.M.Maharaja,

Special Government Pleader (R1 To R5)

O R D E R

The petitioner claims to be one of the persons of the seven branches referred in the modified Scheme passed in O.A.No.144 of 1968 dated 05.03.1973, from the original scheme which was settled in the year 1933. Hence, the petitioner claims right of vote and to be elected as a trustee in the famous Arulmigu Angalamman Thirukoil.

2.The learned counsel appearing for the petitioner submitted that the Commissioner, Hindu Religious and Charitable Endowments Department, the 2nd respondent herein has initiated the process of preparing voters list and a notification dated 10.01.2018 has also been issued and list of eligible adult male members has been called for, which is against the Scheme, wherein it was mentioned only as adult members. As the petitioner is an adult belonging to one of the seven branches, she is entitled to vote and contest in the ensuing election.

3.Referring to Section 47 (1) (c) of the Tamil Nadu Religious and Charitable Endowments Act, 1959, it is pleaded that every Board of Trustees constituted under clause (a) or clause (b) shall consist of not less than three and not more than five persons, of whom one shall be a member of the Scheduled Castes or Scheduled Tribes [and another one shall be a woman] provided that [the Government, the Commissioner, or the Joint Commissioner or the Deputy Commissioner] as the case may be, may, pending the constitution of such Board of Trustees, under this sub-section, appoint a fit person to perform the functions of the Board of Trustees. Therefore, when there is no bar for the women to be appointed as Trustees, they cannot be kept out of the Temple administration.

4.The learned counsel submitted that the said issue has already been raised in O.A.No.3 of 2012, but till date the same is not yet decided and the Commissioner, Hindu Religious and Charitable Endowments Department, the 2nd respondent has also remitted the matter back to the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Villupuram vide his order dated 15.06.2016 in A.P.No.18/2015 D2, to take a decision on the alternatives suggested in the order in consultation with the stakeholders in the 4th branch within a period of three months from the date of receipt of the order and there was also a direction to follow the present system till a decision is taken by the Joint Commissioner.

5.In view of the direction given by the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai on 15.06.2016 in A.P.No.18/2015 D2, without deciding the case on merits, the election process should not have been initiated.

6.The learned Special Government Pleader appearing for the respondents, placing on record the order passed by this Court dated 17.01.2018 in W.P.No.914 of 2018 [Arulmighu Angalamman Thirukoil Arangavalar Trust, rep by its Board of Trustees vs. The Secretary to Government, Tourism, Culture and Endowment Department, and 4 others], submitted that when the aforementioned Writ Petition is filed seeking a direction to the respondents 1 to 3 to fix the term of office of the Board of Trustees as 3 years as per the Scheme Decree dated 05.03.1973 passed in O.A.No.144/68 on the basis of the representation dated 01.09.2017, this Court, without expressing any view on the respective contentions/claims made by the parties therein, directed the respondents, more particularly, the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai and the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Villupuram, the respondents 2 & 3 therein, to consider the claim of the petitioners seeking for extension of the period by one year and pass orders on the same, on merits and in accordance with law, within a period of two weeks from the date of receipt of the copy of the order. In the said order, it was made clear that till an order is passed, status quo as on that day has to be maintained by both the parties in respect of the administration of the temple as well as election notification dated 10.01.2018.

7.The learned Special Government Pleader pleaded that in view of the order of this Court dated 17.01.2018 passed in W.P.No.914 of 2018, the representation made by the petitioner dated 25.04.2018 may also be disposed of on merits and in accordance with law along with O.A.No.3 of 2012. After the disposal of the petitioner's representation dated 25.04.2018 and O.A.No.3 of 2012, the petitioner and others may not have any grievance.

8.In view of the above, this Court also finds that the petitioner's representation dated 25.04.2018 deserves to be disposed of on merits and in accordance with law by the 3rd respondent, the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Villupuram, while considering the pending O.A.No.3 of 2012 as directed by the Commissioner, Hindu Religious and Charitable Endowments Department in order dated 15.06.2016 made in A.P.18/2015 D2.

9.It is also brought to the notice of this Court that the petitioner has also filed impleading application raising the same issue.

10.Hence, the 3rd respondent shall consider the petitioner's representation and also the impleading application and decide

the same on merits and in accordance with law. The entire exercise shall be disposed of within six months time.

11. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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Fort St. George, Chennai.

2. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam, Chennai - 600 034.

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5. The Assistant Commissioner/Executive Officer,
Arulmigu Angalamman Thirukoil,
Melmalayanur, Villupuram District.

+1cc to Mr.A.Palaniappan, Advocate, S.R.No.38394
+1cc to the Government Pleader, S.R.No.38370

W.P.No.14402 of 2018 and
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