



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD)No.26923 of 2019

and

W.M.P (MD)Nos.23272 and 23275 of 2019

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V.Palanichamy

... Petitioner

.Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Ellish Nagar,
Madurai.

3.The Executive Officer,
Arulmighu Muthumariamman Thirukkoil,
Vallakundapuram,
Theerthagoundanvalasu Post,
Oddanchatram Taluk,
Dindigul District.

4.P.Vijayakumar

5.K.Chinnarasu Gounder

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned notification issued by the third respondent in Dinathanthi, Dindigul Edition, dated 11.12.2019 and to quash the same and consequently to forbear the respondents 1 and 2 from conducting any meeting pending disposal of other proceedings pending before this Court as well as the competent authority.

For Petitioner : Mr.G.Ethirajulu

For Respondents : Mr.VR.Shanmuganathan

1 and 2 Special Govt.Pleader

For Respondent-3:Mr.Muthu Geethaiyan

For Respondents :Mr.K.Govindarajan

4 and 5 for Mr.R.Murali

ORDER

<https://hcservices.ecourts.gov.in/hcservices/> This Writ Petition has been filed seeking to quash the



impugned notification issued by the third respondent in Dinathanthi, Dindigul Edition, dated 11.12.2019 and consequently, to forbear the respondents 1 and 2 from conducting any meeting, pending disposal of other proceedings pending before this Court as well as before the competent authority.

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2.Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 1 and 2, Mr.Muthu Geethaiyan, learned counsel takes notice for the third respondent and Mr.K.Govindarajan, learned counsel representing Mr.R.Murali, takes notice for the respondents 4 and 5.

3. By consent of both parties, the main Writ Petition is taken up for final disposal.

4.The Writ Petition is filed to issue a Writ of Certiorarified Mandamus challenging the impugned notification issued by the third respondent, who is the Executive Officer of Arulmighu Muthumariamman Thirukkoil, Vallakundapuram, Theerthagoundanvalasu, Oddanchatram Taluk, Dindigul District and also Fit Person for the temple in dispute(third respondent).

5.With respect to the disputed temple, there was a scheme framed in O.A.No.9 of 2008 on 27.01.2009, is published in the District Gazette. The Petitioner and one Chinnasamy were appointed as Non-Hereditary Trustees as per the scheme and they were continuing so till 2018. The respondents 4 and 5 herein were doing certain irregularities and illegalities. They are said to be, the brother's children of one S.V.Palanichamy. Hence the Petitioner made a complaint to the second respondent as well as to the Assistant Commissioner, Hindu Religious Charitable and Endowments Department, Dindigul and demanded an enquiry. The enquiry was conducted and it was found that the said S.V.Palanichamy has committed misappropriation of funds of the temple. The Petitioner also made representations to the respondents 1 and 2 to take appropriate action against the above said persons. Based on the same, the second respondent had appointed a Thakkar/Fit Person on 16.11.2018. The said Fit Person had already taken charge. Aggrieved by the appointment of the Fit Person, W.P(MD)No.24278 of 2018 was filed by S.V.Palanichamy and the same is still pending. The Petitioner herein also has filed O.A.No.20 of 2018 before the second respondent for amendment of the scheme framed in O.A.No.9 of 2008. The second respondent by invoking Section 64(5) of the Hindu Religious Charitable and Endowments Act, 1959 issued suo-motu proceedings in O.A.No.9 of 2008, dated 16.11.2018. The said proceeding was also challenged in W.P(MD)No.24279 of 2018, which is also pending. Yet another Writ Petition in W.P(MD)No.22136 of 2018 was filed by the fourth respondent challenging the appointment of Trustees. While so, the



third respondent had issued a public advertisement in Dhinathanthi, Dindigul Edition on 11.12.2019, informing that a meeting for the selection of Non-Hereditary Trustees of the Temple will be held on 20.12.2019 at 11.00 a.m at Vallakkundapuram village. It is pointed by the learned counsel for the Petitioner that in W.P(MD)No.24300 of 2019 which was filed for a mandamus seeking a direction to the second respondent to consider the application of the Petitioner therein one Chinnarasu Gounder to appoint him as a Hereditary Trustee, this Court passed the following Order:

'5.Considering the facts and circumstances of the case, without going into the merits of the case, a direction is issued to the second respondent to consider the application of the Petitioner, dated 11.10.2018 and after issuing notice to all the stakeholders and after providing an opportunity of personal hearing, pass orders on merits and in accordance with law, within a period of twelve months from the date of receipt of a copy of this order.'

6.The Petitioner states that the third respondent herein though not a party to the said Writ Petition, has issued the impugned advertisement contrary to the order passed by this Court. His grievance is that he had been holding the post of Trustee till 2018 and he belongs to Porulur village, but the tenor of the advertisement says that only those who are residents of Vallakkundapuram village are only entitled to participate in the meeting. The Petitioner also alleged that it is at the instance of the respondents 4 and 5, such a notice was issued by the third respondent. However, Mr.K.Govindarajan, learned counsel appearing for the respondents 4 and 5 has categorically mentioned that they have no objection for the Petitioner who belongs to Porulur village to participate in the meeting for the election and also contest the same as scheduled on 20.12.2019. The allegation of the Petitioner is that the Fit Person / Executive Officer / Third respondent herein, who has to act neutrally, has been taking sides. The said Officer by name, Mr.Ganapathy Murugan is also present before this Court. As the impugned notice itself is for electing Trustees, subsequent to which, service of the Fit Person will be relieved.

7.In view of the above, this Writ Petition is disposed of, with the following directions:

(1)Though the notice has been issued by the Executive Officer namely, third respondent, the Joint commissioner/the second respondent herein be personally present on 20.12.2019 as mentioned in the advertisement and convene the meeting in the process of



selecting the Trustees;

(2) the above said Officer Mr. Ganapathy Murugan is restrained from attending the meeting scheduled to be held on 20.12.2019;

(3) It is made clear that the meeting will go on as scheduled in the impugned notification, on the above directions.

No costs. Consequently, connected Miscellaneous Petitions are closed.

8. Post the matter under the caption '' for reporting compliance'' on 8.1.2020.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

vsn

To

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Nungambakkam,
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+1 CC to MR. J. BRISTON ROMARIO, Advocate (SR-105636[F] dated 18/12/2019)

+1 CC to MR. G. ETHIRAJULU, Advocate (SR-105629[F] dated 18/12/2019)

+1 CC to SPL.GP (SR-106448[F] dated 20/12/2019)

ORDER MADE IN
W. P (MD) No. 26923 of 2019
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