

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos.22891 to 22895 of 2018
and W.P.Nos.22896 to 22900 of 2018
and WMP.Nos.26764 to 26793 of 2018

K.Venkatachalam .. Petitioner in
W.P.Nos.22891 and 22896 of 2018

K.Gunasekaran .. Petitioner in
W.P.Nos.22892 and 22898 of 2018

S.Natarajan .. Petitioner in
W.P.Nos.22893 and 22897 of 2018

R.Eswaran .. Petitioner in
W.P.Nos.22894 and 22899 of 2018

S.Poongodi .. Petitioner in W.P.Nos.22895
and 22900 of 2018

..Vs..

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Erode District.

2. R.Palanichamy

3. N.Soundappan

4. P.A.Soundappan .. Respondents in W.P.Nos.22891 to
22895 of 2018

1. The State of Tamil Nadu
Rep. By Chief Secretary,
Government of Tamil Nadu,
Tourism, Culture and Religious
Endowments Department,
Fort St.George,
Chennai - 600 009.

2. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai District.
3. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Coimbatore District.
4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Erode District.
5. K.Thangaraj
6. P.Vijayakumar ...Respondents in W.P.Nos.22896 to
22900 of 2018

Prayer in W.P.Nos.22891 to 22895 of 2018 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Se.Mu.Na.Ka.2013/2017/A3, dated 02.02.2018 appointing respondents 2 to 4 as non-hereditary trustees of Arulmigu Ramalinga Sowdeswariamman Thirukkoil, Punjai Puliyampatti, Sathiyamangalam Taluk, Erode District and to quash the same and further direct the 1st respondent herein to dispose of the petitioners' applications dated 08.12.2017 submitted pursuant to the Notification of the 1st respondent in Na.Ka.No.2013/2017/A3, dated 20.11.2017 calling for applications for appointment of non-hereditary trustees to the above mentioned temple.

Prayer in W.P.Nos.22896 to 22900 of 2018: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.(P) No.42, Tourism, Culture, Religious (AN 3-1) Department, dated 27.04.2018 appointing respondents 5 to 6 as non- hereditary trustees of Arulmigu Ramalinga Sowdeswariamman Thirukkoil, Punjai Puliyampatti, Sathiyamangalam Taluk, Erode District and to quash the same and further direct the 4th respondent herein to dispose of the petitioner's application dated 08.12.2017 submitted pursuant to the Notification of the 4th respondent in Na.Ka.No.2013/2017/A3, dated 20.11.2017 calling for applications for appointment of non-hereditary trustees to the above mentioned temple.

For Petitioner : Mrs.Radha Gopalan for
in all W.Ps. Mr.S.Panneer Selvam

For Respondents : Mr.M.Karthikeyan,
in all W.Ps. Special Government Pleader (for R1)
Mr.V.Srikanth (for R2 to R4)

COMMON ORDER

The five writ petitions in W.P.Nos. 22891 to 22895 of 2018 have been filed in the nature of Certiorarified Mandamus, to call for the records from the 1st respondent namely the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Erode District with respect to the order in Se.Mu.Na.Ka.2013/2017/A3, dated 02.02.2018 appointing respondents 2 to 4 namely R.Palanichamy, N.Soundappan and P.A.Soundappan as non-hereditary trustees of Arulmigu Ramalinga Sowdeswariamman Thirukkoil, Punjai Puliyampatti, Sathiyamangalam Taluk, Erode District and quash the same.

2. The five writ petitions in W.P.Nos.22896 to 22900 of 2018 have been filed in the nature of Certiorarified Mandamus, to call for the records from the 1st respondent in G.O.(P) No.42, Tourism, Culture, Religious (AN 3-1) Department, dated 27.04.2018, appointing respondents 5 to 6 as nominated trustees of Arulmigu Ramalinga Sowdeswariamman Thirukkoil, Punjai Puliyampatti, Sathiyamangalam Taluk, Erode District.

3. The petitioner and also the respondents 2, 3 and 4 in W.P.Nos.22891 to 22895 of 2018 and respondents 4 and 5 in W.P.Nos.22896 to 22900 of 2018 belong to Devanga Chettiar community. It is stated that about 150 families of the said community members reside in Punjai Puliyampatti Village. There is a deity known as "Ramalinga Sowdeswariamman" in the temple situated in that village, worship to which should normally bring about peace and harmony. However, the villagers have created divisions among themselves. This division has been created since everyone claims to be appointed as non-hereditary and nominated trustees.

4. It is stated that several members of the community filed petitions in O.A.No.13 of 2007 before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Coimbatore for framing a scheme for administration of the temple. By an order dated 18.04.2012, the applications were received and objections were called for. Thereafter, a draft scheme was published on 10.07.2012. It is stated that the 1st respondent in W.P.Nos.22891 to 22895 of 2018 namely the Assistant

Commissioner, Hindu Religious and Charitable Endowments Department, Erode District was to appoint trustees from the Devanga Chettiar Community who are residing in Punjai Puliyampatti Village. The trustees would be totally five in number, of which three would be non hereditary trustees and two would be nominated trustees.

5. The petitioners in W.P.Nos.22891 to 22895 of 2018 have questioned the order of the Assistant Commissioner, HR & CE Department who had appointed three non-hereditary trustees. The petitioners in W.P.Nos.22896 to 22900 of 2018 have questioned the Government Order of the 1st respondent/the Chief Secretary, Government of Tamilnadu, Tourism, Culture and Religious Endowment Department, dated 27.04.2018 wherein, the two nominated trustees were appointed. These two nominated trustees were appointed on the basis of the recommendation made by the Commissioner, HR & CE Department by recommendation letter dated 04.03.2018 in Na.Ka.No.7746/2018/A2.

6. Heard Mrs.Radha Gopalan, learned counsel for the petitioners and Mr.M.Karthikeyan, learned Special Government Pleader for R1 and Mr.V.Srikanth, learned counsel for R2 to R5 in all writ petitions.

7. The main grievance of the learned counsel for the petitioners in all the writ petitions is that, when the applications were called for appointment of non hereditary trustees and nominated trustees, the petitioners who are five in numbers and the contesting respondents who have been appointed as non hereditary/nominated trustees who are also five in number, had all submitted their applications. This means that totally 10 applications had been received seeking forth claims for being appointed either as non-hereditary trustees or as nominated trustees of the temple.

8. In this connection, an enquiry was also conducted by the Inspector, Hindu Religious and Charitable Endowments Department, Sathiyamangalam Taluk, Erode District. It is not disputed in the counter affidavit that 10 applications were received by the Department and the applications were duly forwarded to the Jurisdictional Inspector of the Department and an enquiry was conducted by him. The Inspector conducted an enquiry and the details of the applicants and the relevant documents were sent to the office of the Assistant Commissioner, HR & CE Department. On perusal of the report submitted by the Inspector, the Assistant Commissioner, HR & CE Department, Erode District on 02.02.2018 had passed an order which is impugned in the writ

petitions, appointing three persons who are the respondents 2 to 4 in W.P.Nos.22891 to 22895 of 2018 as Non-Hereditary Trustees to the temple and further recommended to the Government to appoint two members who are respondents 5 and 6 in W.P.Nos.22896 to 22900 of 2018 as Nominated Trustees.

9. However, both the learned counsels stated that actually in the report submitted by the Inspector, HR & CE, Sathiyamangalam on 19.12.2017, a copy of which has also been filed before this Court, he had forwarded the credentials of only five members from the 10 applications, and had not given any reason why he has not forwarded the credentials of other five applicants who are the petitioners herein.

10. In this connection, attention is also drawn to the fact that one of the community members had sought clarification under the Right to Information Act in January 2018. A reply had also been received in March 2019 stating that 10 applications have been received and that consideration is under process and no decision has been taken.

11. This statement given under the Right to Information Act has been specifically pointed out by the learned counsel for the petitioners who questioned the order impugned in the W.P.Nos.22891 to 22895 of 2018 which was passed on 02.02.2018. The learned counsel therefore imputed malafide on the part of the respondents contradicting the answer given under the Right to Information Act that no decision has been taken till March 2019, but a decision was actually taken in February 2018 and they had appointed three non hereditary trustees even as early as 02.02.2018.

12. Further, the learned counsel for the petitioners also pointed out the fact that in the impugned orders which are challenged in all the writ petitions that the authorities had stated that only 5 applications have been received when as a fact 10 applications have been forwarded including that of the five petitioners herein and that of the respondents 2, 3 and 4 in W.P.Nos.22891 to 22895 of 2018 and that of the respondents 5 and 6 from W.P.Nos.22896 to 22900 of 2018. It is therefore urged that the orders has to be interfered by this court.

13. Mr.M.Karthikeyan, learned Special Government Pleader for HR & CE Department who also had the benefit of getting oral instructions from the Inspector, HR & CE Department, Chennai who is present in Court stated that it is a fact that in the orders which are impugned mention has been made of only five applications. It is also stated that by the orders, the non

hereditary trustees and nominated trustees have taken charge with effect from 29.06.2018.

14. The learned counsel stated that as per Section 47 of the Hindu Religious and Charitable Endowment Act, the Trustees shall hold the office for a period of two years from the date on which the Chairman Board of trustees has been elected. That would expire in about five four months from today.

15. Mr.V.Srikanth, learned counsel appearing for R2 to R5 in W.P.Nos.22891 to 22895 of 2018 and R5 and R6 in W.P.Nos.22896 to 22900 of 2019 stated that the said respondents had taken charge pursuant to the orders issued appointing them either as nominated trustees or as non-hereditary trustees and during the pendency of the writ petitions, no allegations of either misuse of funds or any other aspect has been raised. The learned counsel stated that these respondents were discharging duties to the satisfaction of the villagers and consequently having been properly appointed as per rules, it would be only just and fair that they continue in office till the expiry of the present term. If there is any interference of the office, their reputation will be surely affected.

16. I have given anxious consideration to the matters on record.

17. It is a fact that the petitioners and the respondents who have been appointed as non-hereditary trustees and nominated trustees belong to the very same community of very same village viz., Punjai Puliampatti Village in Erode District. They have filed applications for the posts of nominated trustees or non hereditary trustees for Arulmigu Ramalinga Sowdeswariamman Thirukkcoil, at the village. Naturally appointment to such post would give them respect within the said community. However, the administration of the temple is only for the purpose of maintaining peace and harmony.

18. In the instant case, when 10 applications were forwarded and received by the Inspector, Sathiyamangalam Taluk, Erode District, it is expected that the Inspector would examine the credentials of all the applicants and forward all the applications which had been put forth before him for his opinion. Unfortunately the Inspector, Sathiyamangalam, Erode District in his report dated 19.12.2017 had referred to the credentials of 5 applicants only. No reason have been given for not mentioning the credentials of the petitioners (remaining 5 members) who have not been selected. This goes to the very root of the matter and certainly when an administrating order is

examined by the Court, the principle points that arise for consideration are whether Principles of natural justice had been followed or violated and whether discretion has been exercised arbitrarily or with reasons. If there were any aspects attracting rejection of any of the applications, then reasons have to be given.

19. In the instant case, the petitioners herein have raised grievances on the ground that when 10 applications were received, only five applications have been recommended for appointment of the 5 applications, three applicants have been appointed as non hereditary trustees and two applicants have been appointed as nominated trustees. The two orders naturally have to be interfered with by this Court. The petitioners must have been put on notice regarding their disqualification. The only qualification for the posts are that the applicant must belong to the Devanga Chettiar community and must also at least temporarily residents of Punjai Puliyampatti Village and worshipers of the temple. When all the 10 applicants were standing on the same footing, and when only 5 have been appointed, the non selected members have to be rejected with reasons. Any order which actually does not disclose the reasons have to be interfered with by this Court.

20. However, in order to maintain peace and harmony, since there are three non hereditary trustees and two nominated trustees who are functioning as on date, it would only be proper that they are permitted to continue to function till a new committee of administration is formed i.e, non hereditary trustees and nominated trustees are appointed.

21. In view of the above discussion, this Court is inclined to allow the writ petitions with the following directions:

- i. The Inspector, Sathiyamangalam, HR & CE Department Erode is directed to call on 03.02.2020 fresh applications from the petitioners as well as from the respondents and any other person who are interested to act as trustees and give the village committee people a time period of two weeks, up to 17.02.2020 for submission of applications for the post of either non hereditary trustees or nominated trustees or both.
- ii. The Inspector, Sathiyamangalam Taluk, Erode District is directed to conduct a detailed enquiry with respect to all the applications regarding the respective credentials of the applicants.
- iii. A report must be forwarded to the Assistant Commissioner, HR & CE Department, Erode District with respect to all the applicants on or before 16.03.2020.

- iv. Thereafter, the Assistant Commissioner may pass a detailed order, selecting three non hereditary trustees and at the same time giving reasons for rejecting the other applicants. The order of the Assistant Commissioner should be passed on or before 30.03.2020.
- v. The Assistant Commissioner, HR & CE Department, Erode District may also forward the recommendation for nominated trustees on the same day namely 30.03.2020 and such recommendation must be based on reasons.
- vi. The Government may then pass final orders appointing the nominated trustees, which exercise must be completed on or before 30.04.2020.
- vii. Once the entire process is completed, the said individuals may take charge from 01.05.2020.
- viii. Till that date (30.04.2020), the persons who are in the respective posts at present, may continue to hold the posts.

22. With the above directions, all the writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (C.S.II)

/True copy/

Sub Assistant Registrar

To

1. The Chief Secretary, Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai District.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore District.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Erode District.

+1 cc to M/s.S.Panneer Selvam, Advocate Sr.No. 3374

AKM/28.01.2020/8P- 6C /

W.P.Nos.22891 to 22895 of 2018
and W.P.Nos.22896 to 22900 of 2018
and WMP.Nos.26764 to 26793 of 2018