



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.8164 of 2020

M.Parasuraman

... Petitioner

Vs.

1.The Joint Commissioner,
H.R. & C.E. Department,
Madurai.

2.T.Mani.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to appoint three trustees for Arulmigu Santhakula Sowmya Narayana Kavara Samuthaya Kattalai from among the members of Kavaraya Community in accordance with the scheme framed by the Board and in accordance to the modification made to the scheme by the H.R. & C.E. Department in its proceedings dated 25.04.1986 in O.A.No.43 of 1984 by considering the representation of the petitioner dated 03.07.2020.

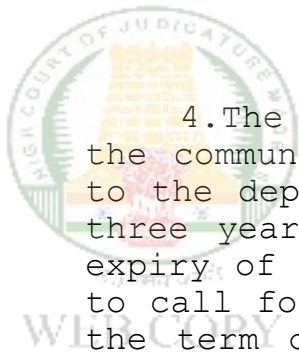
For Petitioner	:	Mr.Srinivasaragavan For M/s.N.Barathi
For Respondents	:	Mr.R.Murugaraj, Additional Govt. Pleader for R1 Mr.T.Lenin Kumar for R2

O R D E R

Heard the learned counsel on either side.

2.The case on hand pertains to the management of Arulmigu Santha Kula Somya Narayana Kavara Samuthaya Kattalai. It is an endowment established and administered by a particular community. Its administration is governed by the scheme framed in O.A.No.336 of 1939. It was since modified vide order dated 25.04.1986 in O.A.No.43 of 1984. In the year 2017, election was conducted and a three member board was also constituted. One T.Mani/second respondent was elected as the Managing Trustee. But it appears that the entire management was run by one Balakrishnan. The said Balakrishnan is said to have committed certain acts of misappropriation. Therefore, fit person was appointed. In the meanwhile, the tenure of the board had also expired. Therefore, this writ petition has been filed for directing the first respondent to appoint three trustees for running the endowment in accordance with law.

3.No exception can be taken to the said request.



4.The modified scheme dated 25.04.1986 states the members of the community shall elect three persons from among them and submit to the department. The term of the office of the trustees will be three years. The scheme envisages holding of election before the expiry of the tenure of the board. The Chairman has been mandated to call for the general body meeting one month before the expiry of the term of period. But in the case on hand, the tenure of the board had expired. As on date, there is no Chairman. There is only fit person appointed by the department. Though I quashed the order appointing a fit person, since there cannot be vacuum in the administration, I have directed that till the new board is constituted, the fit person will continue to hold charge. Now the question is how to conduct the process of constitution of the board. The scheme speaks of election. Therefore, election must be held. To hold the election, there must be list of general body members. The fit person is therefore directed to prepare a list of general body members within a period three weeks from the date of receipt of a copy of this order. The fit person will bear in mind the settled practice while preparing the said list. The list will be published in the website of the Hindu Religious and Charitable Endowment Department and objections will be invited. The list will be finalized within a period of two weeks after the date of publication. The fit person will thereafter issue election notification and conclude the entire process within a period of four weeks thereafter. Based on the outcome of the election, the board of trustees will be constituted.

5.The writ petition stands allowed accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Joint Commissioner, H.R. & C.E. Department, Madurai.

+1 CC to M/s.N.BHARATHI, Advocate (SR-15459[F] dated 31/08/2020)

+1 CC to M/s.GP (SR-15511[F] dated 01/09/2020)

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SCR(CO)

AP(25/09/2020) 2P 4C

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