



WEB COPY

W.P.(MD)No.9013 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9013 of 2020

and

W.M.P(MD).No.8236 of 2020

Nadarajan @ Vithesvara Sivachariyar
S/o.K.Pitchaiah Sivachariyar
Hereditary Madathipathi
Melamadam
No.278, West Car Street
Tirunelveli Town
Tirunelveli

... Petitioner

Vs.

1.The Commissioner
Hindu Religious and
Charitable Endowment
Nungambakkam
Chennai - 07

2.The Joint Commissioner
Hindu Religious and
Charitable Endowment
Tirunelveli

3.The Deputy Commissioner
Hindu Religious and
Charitable Endowment
Tirunelveli

4.The Assistant Commissioner
Hindu Religious and
Charitable Endowment
Tirunelveli

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent herein to dispose of the representation of the petitioner dated 06.02.2020.

For Petitioner	:	Mr.R.Vijayakumar
For Respondents	:	Mr.K.P.Narayanakumar Special Government Pleader



O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

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2. The petitioner states that he is functioning as the Madathipathi of the petition mentioned Mutt. He has given a representation dated 06.02.2020 calling upon the first respondent to issue him orders of appointment recognizing him as a Hereditary Madathipathi.

3. When the matter was taken up for hearing, this Court put the learned Special Government Pleader on notice. This Court wanted to know as to whether there is any provision in the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 which confers powers on the HR & CE Department to recognise the appointment of Madathipathi. The learned Special Government Pleader took notice and informed the Court today that Chapter-IV of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 deals with Mutts.

4. Chapter IV contains provision from Sections 59 to 62. Section 59 of the Act authorizes the Commissioner of HR & CE to institute a suit before the competent Court for removal of trustee on the grounds set out in the provision. Likewise, any two or more interested persons after obtaining consent of the Commissioner in writing institute a similar suit. When a vacancy arises in the office of the trustee of the Mutt or a specific endowment attached to the Mutt and there is a dispute respecting succession to such office or if the vacancy cannot be filled up immediately or other circumstances set out in Section 50 of the Act, the Assistant Commissioner may step in and discharge the function set out in Section 60 of the Act.

5. After getting report from the Assistant Commissioner, the Commissioner, HR & CE after making such enquiry may make such arrangement as he deems fit till the circumstances which gave rise to such situation cease. Section 61 of the HR & CE Act talks about fixing the standard scale of expenditure. Section 62 of the Act is regarding the power to spend Pathakanikkai amount. No where there is any provision authorizing the HR & CE Department to recognise the appointment of Madathipathi or to appoint Madathipathi.

6. Therefore, I am of the view that the petitioner ought not to have moved the respondents with such a prayer. It is not the case of the respondents that there is any vacancy in the office of the Mutt or that the circumstances set out in Section 60 of the Act are present. Therefore, it is open to the petitioner to continue to function and if any specific cause of action arises, it is always open to the petitioner to move this Court again for relief.



7. With this observation and liberty, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

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

1. The Commissioner
Hindu Religious and
Charitable Endowment
Nungambakkam , Chennai - 07
2. The Joint Commissioner
Hindu Religious and
Charitable Endowment , Tirunelveli
3. The Deputy Commissioner
Hindu Religious and
Charitable Endowment , Tirunelveli
4. The Assistant Commissioner
Hindu Religious and
Charitable Endowment , Tirunelveli

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-14445[F] dated 19/08/2020)

+1 CC to M/s.GP (SR-14537[F] dated 20/08/2020)

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and

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19.08.2020

AP(02/09/2020) 3P 7C

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