



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5769 of 2017

and

W.M.P.(MD).No.4593 of 2017

P.Gopal Nadar

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

2. The Executive Officer / Thakkar,
Arulmigu Perumalsamy Thirukovil,
Sathankulam,
Thoothukudi District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to appoint non hereditary trustees to Arulmigu Perumalsamy Temple, Thachanmozhi, Sathankulam, Thoothukudi District, within a time frame stipulated by this Court.

For Petitioner	: Mr.C.T.Perumal
For R-1	: Mr.V.R.Shanmuganathan
For R-2	: Mr.M.Muthugeethayan

O R D E R

Heard the learned counsel on either side.

2. The petitioner wants the first respondent to appoint non hereditary trustees for the petition mentioned Temple. It is alleged by the second respondent that the delay occasioned in this case is due to the various litigations initiated by the petitioner herein. Be that as it may, no exception can be taken to the request made by the petitioner. The District Committee constituted in this regard shall call for the applications as early as possible. It is true that an order earlier passed in O.A.No.66 of 1961 states that since the residents have administered the affairs of the Temple, it will be in the interest of the institution concerned to have its management with them. It was further directed that the competent



authority namely, the Area Committee of the District will appoint as Trustee persons chosen by the Hindu Nadar Community people of Manickavasagapuram, Pandaram Chettivilai, Thatchanmozhi and Asirvathapuram 2nd Street in Sathankulam, Thoothukudi District.

3. I am afraid that this order may not have any legal validity any further. This is because the order admittedly was passed only under Section 63 (a) and (b) of the Hindu Religious and Charitable Endowments act, 1959. Section 63 (a) and (b) authorizes the authority concerned to declare whether an institution is a religious institution or whether a trustee holds or held office as a hereditary trustee. Beyond that no further direction can be passed while exercising power under this provision. Admittedly, no scheme has been framed. Therefore, the District Committee will call for applications and send proposals to the Joint Commissioner, Hindu Religious and Charitable Endowments, Tirunelveli.

4. Though I have held that the District Committee cannot be bound by the direction given in O.A.No.66 of 1961, I have to necessarily observe that recommendatory proposals of the District Committee will have to necessarily take note of the ground realities. This exercise shall be completed by the District Committee within a period of three months. The first respondent herein will pass final orders within a period of one month after reception of proposals from the District Committee. The Government shall also appoint the remaining trustees within a period of six weeks after the proposal is received from the Joint Commissioner.

5. The Writ Petition is disposed of on these terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

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,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

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+1 CC to Mr.C.T. PERUMAL, Advocate (SR-13612[F] dated 04/08/2020)

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