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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.5162 of 2015
and
MP.No.1 & 2 of 2015

T.Othaiyandi

...Petitioner

Vs.

- 1.The Secretary
Tamil Development Charitable Endowment and
News (C.E. 3-1) Department,
St. George Fort, Chennai-1
- 2.The Commissioner
Hindu Religious and Charitable Endowment
Board, Nungambakkam, Chennai-34
- 3.The Joint Commissioner
Hindu Religious and Charitable
Endowment Board, Tirunelveli
- 4.Inspector
Hindu Religious and Charitable Endowment
Board, Kulasekaranpattinam, Tirunelveli
- 5.Fit Person/Executive Officer
Arulmighu Swamy Chidambareswarar Thirukovil
Chettiapathu Thiruchendur Taluk
Thoothukudi District

...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of certiorarified mandamus calling for the concerned records relating to order in Appeal Petition No.1/2014 D2 dt 12.5.2014 passed by the 2nd respondent and quash the same and consequently direct the respondents to conduct a fresh election by allowing the petitioner to participate in the election and award cost.

For Petitioner : Mr.L.Parvin Banu
For Respondents : Mr.NRR.Arun Natrajan (for R1 to R4)
Mr.R.Amardeep (for R5)



O R D E R

Heard learned counsel for the petitioner, Mr.NRR Arun Natarajan, learned Government Advocate for R1 to R4 and Mr.Amardeep, learned counsel for the Fit Person/Executive Officer of the Arulmighu Swamy Chidambareswarar Thirukovil (temple in question).

2. The administration of the temple is subject to a scheme that has been framed in O.S.No.4 of 1999 on 03.06.2009. The scheme provides for the administration to be by five hereditary trustees including a women. The requisite qualifications are set forth in the scheme. The tenure of the trustees is one year.

3. As per the election conducted on 20.11.2009, the petitioner appears to have been elected as president. The initial tenure of one year was extended to two years as a result that the tenure of the petitioner as president was till 2011. Thereafter, a fit person was appointed under Section 47(1)(c) on 12.01.2012.

4. The appointment of the fit person was challenged by the petitioner in W.P.(Md).No.4286 of 2012, which came to be dismissed by this Court by order dated 30.08.2012. The aforesaid order of the learned Single Judge was upheld in appeal by order dated 22.07.2013 in W.A.(Md).No.690 of 2012. The appointment of the fit person having become final, the petitioner was requested to hand over charge of the temple along with the keys. This communication was also challenged by the petitioner in W.P.(Md).No.17101 of 2013, which came to be dismissed by order dated 18.10.2013.

5. Despite the appointment of fit person having attained finality, the petitioner was not inclined to hand over charge, as a result that R5 was facing difficulties in the management of the Temple. The Commissioner had to resort to passing of an order breaking the hundials for deposit of the contents in the bank. The petitioner, by conduct, has unquestionably acted adverse to the interests of the temple. Thus, an order under Section 26(1)(h) of the Act come to be passed disqualifying the petitioner from participating in further elections.

6. The provisions of Section 26(1)(h) provide for disqualification of trustee and the relevant provisions read thus:

26. Disqualification of trustees.-(1) A person shall be disqualified for being appointed as,



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and for being, a trustee of any religious institution or endowment—

.....

(h) if he has acted adverse to the interest of any religious institution or endowment.

7. The order of disqualification was challenged in appeal before the Commissioner, who has rejected the same on 12.05.2014, as against which order, the present writ petition is filed.

8. A simple narration of the admitted facts as aforesaid reveals the conduct of the petitioner. Nothing further need be said as the facts speak for themselves. This writ petition is thus dismissed. Mr.Amardeep, learned counsel for the Executive Officer would confirm that as on date charge has been taken by the authorities and the temple is being managed smoothly by the Executive Officer. Connected miscellaneous petition are closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary

Tamil Development Charitable Endowment and
News (C.E. 3-1) Department,
St. George Fort, Chennai-1

2.The Commissioner

Hindu Religious and Charitable Endowment
Board, Nungambakkam, Chennai-34

3.The Joint Commissioner

Hindu Religious and Charitable
Endowment Board, Tirunelveli

4.The Inspector

Hindu Religious and Charitable Endowment
Board, Kulasekaranpattinam, Tirunelveli.



+1cc to M/s.Row & Reddy, L.Parvin Banu, Advocate, S.R.No.32104
+1cc to the Special Government Pleader(HR&CE), SR.32251

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NMI (CO)
CB(10/08/2021)