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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 13480 of 2021
and
W.M.P.Nos.14346 & 14347 of 2021

M.Ramasamy

... Petitioner

-vs-

- 1.The State,
Represented by its Secretary,
Tourism, Culture and Religious Endowments Department,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Erode District.
- 5.K.Gunasekaran
- 6.K.Venkatachalam
- 7.S.Poonkodi

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the initiation of selection process for Non-Hereditary Trustees to Ramalinga Sowdeswari Amman Temple by the 4th respondent in Na.Ka.No.474/A3 dated 03.02.2020 and quash the same and also all further proceedings thereof and further direct the 1st respondent to initiate the selection process for Non-Hereditary Trustees to Ramalinga Sowdeswari Amman Temple in terms of the Scheme settled on 10.07.2012 by adhering to Section 47 of the Hindu Religious and Charitable Endowments Act, 1959.



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For Petitioner : Ms.V.S.Usha Rani
For Respondents : Mr.NRR.Arun Natarajan
Government Advocate (for R1 to R4)
Mr.S.Panneer Selvam (for R5 to R7)

O R D E R

The prayer sought for herein is for writ of certiorarified mandamus calling for the records pertaining to the initiation of selection process for Non-Hereditary Trustees to Ramalinga Sowdeswari Amman Temple by the 4th respondent in Na.Ka.No.474/A3 dated 03.02.2020 and quash the same and also all further proceedings thereof and further direct the 1st respondent to initiate the selection process for Non-Hereditary Trustees to Ramalinga Sowdeswari Amman Temple in terms of the Scheme settled on 10.07.2012 by adhering to Section 47 of the Hindu Religious and Charitable Endowments Act, 1959 (In short 'the Act').

2. That in respect of a temple called "Ramalinga Sowdeswari Amman Temple" situated at Punjai Puliyampatty, Sathyamangalam, Erode District, there was nomination / appointment of hereditary and non-hereditary trustees that was under challenge in a batch of writ petitions in W.P.Nos.22891 to 22895 of 2018 by various individuals.

3. Those writ petitions were heard by a Learned Judge of this Court and disposed the same by a common order dated 20.01.2020, where directions were given to the Assistant Commissioner concerned to invite nominations from the community people concerned for the purpose of appointing hereditary as well as the non-hereditary trustees and to proceed with the selection and appointment of such trustees. Pursuant to the said order passed by this Court as referred above, the Assistant Commissioner, H.R.&C.E Department i.e., the 4th respondent herein has issued a notice on 03.02.2020, whereby, he called for application from the community people namely, Kannada Devenga Chettiyar Community for the appointment / nomination of three hereditary and two non-hereditary trustees. The said notice issued by the 4th respondent dated 03.02.2020 is under challenge in this writ petition.

4. Heard Ms.V.S.Usha Rani, learned counsel for the petitioner, who would submit that, under the provisions of the H.R.&C.E Act (In short 'the Act'), namely, Section 47 of the Act, it is for the Government to nominate the trustees for both the hereditary and non-hereditary or they should have been elected by election. In this context, the officials of the H.R.&C.E Department, like the Assistant Commissioner does not



have the power to appoint anyone as trustees especially hereditary trustees and in this context, since the impugned notice has been issued to invite applications for the purpose of appointment of hereditary and non-hereditary trustees by the 4th respondent himself it goes against the spirit of the principles of H.R.&C.E Act, especially Section 47 of the Act. Therefore, the said impugned notice is vitiated, she contended.

5. When a specific question was posed by this Court that only pursuant to the directions issued by this Court in the aforesaid order dated 20.01.2020 in W.P.No.22891 of 2018 etc., batch cases alone since the 4th respondent had issued the impugned communication to proceed with the selection and appointment of trustees, the learned counsel for the petitioner would contend that, neither the petitioner was a party in such writ proceedings nor the issue now raised by the petitioner had been raised or brought to the notice of the learned Judge in the said batch of cases and therefore, that has not been dealt with by the learned Judge in the said order, the petitioner has right to independently challenge the present impugned notice by projecting these grounds.

6. I have heard Mr.NRR.Arun Natarajan, learned Government Advocate for the respondents, who would submit that, the impugned notice has been issued by the 4th respondent strictly in accordance with the directions issued by this Court in the earlier round of litigation, where orders were passed on 20.01.2020 and in this context not even a single direction has been violated by the respondent/H.R.&C.E Department especially the 4th respondent. Therefore, the challenge now made by the petitioner against the impugned communication is totally unlawful and unjustifiable as that would go against the directions issued by this Court in the aforesaid judgment. Hence, he seeks for dismissal of this writ petition.

7. I have considered the rival submissions made by the parties and perused the materials available on record.

8. As has been rightly pointed out by the learned Government Advocate, detailed directions have been given by the Learned Judge vide order dated 20.01.2020 in W.P.No.22891 of 2018 etc., batch, where the following directions have been given :-

"...19. In the instant case, the petitioners herein have raised grievances on the ground that when 10 applications were received, only five applications

i. The Inspector, Sathiyamangalam, H.R.&C.E Department Erode is directed to call on



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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, H.R.&C.E 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, H.R.&C.E. 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."

9. In the first direction, the Learned Judge specified the date to call for the fresh applications on 03.02.2020, up to



17.02.2020 and he further directed the Inspector, Sathiyamangalam Taluk, Erode District to conduct a detailed enquiry with respect to all the applications regarding the respective credentials of the applicants and thereafter a report was to be forwarded to the Assistant Commissioner, H.R.&C.E Department, Erode District on or before 16.03.2020. Thereafter, the Assistant Commissioner, H.R.&C.E Department was directed to pass a detailed order, selecting three non-hereditary trustees by giving reasons for rejecting the other applicants and such order should be passed on or before 30.03.2020 and the Assistant Commissioner, H.R.&C.E Department was further directed to forward the recommendation of him with reasons of nominated trustees on the same day i.e., on 30.03.2020 to the Government and on receipt of the same, the Government shall pass final orders appointing the nominated trustees and the said exercise must be completed on or before 30.04.2020. The learned Judge further directed that after the completion of the process, the selected / appointed trustees shall take office from 01.05.2020.

10. Only pursuant to the directions given by the Learned Judge, the 4th respondent sent the impugned communication on 03.02.2020 itself inviting applications from the community people for the purpose of selection/ appointment of hereditary and non-hereditary trustees. Insofar as, the hereditary trustees are concerned, the appointment have been made pursuant to the directions issued by this Court and three persons were appointed as hereditary trustees accordingly. Insofar as two non-hereditary persons are concerned, recommendation has been forwarded by the Assistant Commissioner, H.R.&C.E Department to the Government for appointment.

11. This method adopted by the 4th respondent in selection / appointment of hereditary and non-hereditary Trustees is now pointed out by the learned counsel for the petitioner is that it is a flawed one. The reasons cited by the learned counsel for the petitioner that this method of selection / appointment would go against the spirit of Section 47 of the Act and hence this cannot be the method for such selection directly and if at all any appointment has to be made it shall be made only by the Government and not by the officials of the H.R.&C.E Department, because that would go against the provisions of the H.R.&C.E Act.

12. However, this Court feels that, it is a judicial order passed by this Court, where after extensively discussing the issue in question, the Learned Judge issued all such directions and in every stage, each step to be taken by the H.R.&C.E Department has been indicated and mandated by the Learned Judge in the said order. Only in execution of the said order scrupulously the 4th respondent/Assistant Commissioner, H.R.&C.E



Department has issued the impugned notice, pursuant to which, much water has flown and appointments have been made.

13. In this context, if at all the petitioner has got any grievance with regard to the method adopted by the 4th respondent that should only be treated as the execution of the direction given by this Court and in that case, the petitioner's grievance must not be against the officials of the H.R.&C.E department, but such grievance may be against the the decision made by this court in the order referred to above, as against which, if at all the petitioner felt aggrieved, even though the petitioner is not a party to such proceedings, he could have appealed against the said order in the manner known to law by getting proper leave from this Court. However, no such action was initiated by the petitioner's side and thereby the order of the Learned Judge dated 21.01.2020 has become final and that has been acted upon strictly by the 4th respondent, where the impugned communication is part of it. Therefore, this Court has no hesitation to hold to that absolutely there could be no impediment for the 4th respondent or any other officials of the H.R.&C.E., Department to act upon the directions of the Court which they have followed. Hence, the impugned communication cannot be said to be infirm and that on that ground, the impugned order cannot be successfully assailed by the petitioner.

14. In view of the aforestated reasons and directions, the writ petition fails and it is liable to be rejected. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sp/kst

To

1. The Secretary,
Tourism, Culture and Religious Endowments Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner,
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3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore.

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

+lcc to Mr.S.Panneer Selvam, Advocate, S.R.No.59837

+lcc to the Government Pleader, S.R.No.59551

W.P. No. 13480 of 2021

and

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SV[co]
NSK 10/02/2022