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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No. 21624 of 2014 and
MP.No.2 of 2014 and
WMP.No.18486 of 2018

R.Marannan

...Petitioner

Vs.

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore Division,
Coimbatore District.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore,
Coimbatore District.
- 3.The Fit Person,
A/M.Mariamman Thirukkivil,
Bellathi Mettupalayam Taluk,
Govai District.
also the Executive Officer,
A/M.Aranganathaswamy Thirukkivil,
Karamadai, Mettupalayam Taluk,
Govai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 2.7.2014 passed by the 3rd respondent and impugned order dated 4.7.1996 bearing Nada.Na.Ka.No.4439-22/96/A6 passed by the 2nd respondent herein and quash the same and consequently forbearing the respondents from in any way interfering with the administration of Arul Migu Karia Mariamman Thirukkivil, Bellathy.



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For Petitioner : Mr.Sudhakar
for Mr.V.P.Karthikeyan

For Respondents : Mr.N.R.R.Arun Natarajan
(for R1 & R2)

Government Advocate

Mr.K.Ashok Kumar (for R3)

ORDER

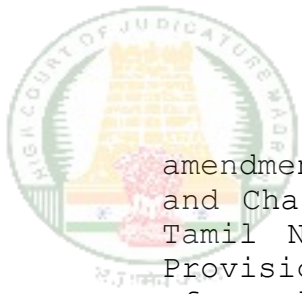
The petitioner is the Managing Trustee of the Board of the Arulmighu Karia Mariamman Thiruukkoil, Bewllathi, Mettupalayam Taluk, Covai District (temple/temple in question) and challenges order dated 04.07.1996 appointing a fit person for the management of the temple as well as an order passed in consequence thereof, on 02.07.2014, twelve years after the appointment of the fit person, calling upon the petitioner to hand over charge of the administration of the temple in question.

2. On 11.08.2021, based on the submissions of Mr.Ashok Kumar, learned counsel for R3, I had recorded the following:

2. In this matter, Scheme has been framed on 28.12.1993, but has not been notified as per Framing of Schemes Rules under G.O.Ms.No.4851, Revenue dated 26.11.1960 which states under Rule 4 that every order of the Joint/Deputy Commissioner settling/modifying or cancelling a scheme under Section 64 shall be published and gazetted. In any event, assuming that the Scheme, on account of non-publication is rendered ineffective, there is no answer as on date in regard to the inaction of the Department to intervene in the management of the temple till the appointment of a Fit Person in 2014.

3. I am given to understand today that the above record of submissions do not reflect the correct factual position. This is for the reason that the scheme that has been framed providing for the management of the temple in O.A.No.43 of 1992 dated 28.12.1993, including appointment of trustees, has been notified on 27.01.1995. The notification of the scheme is thus not in dispute and as a consequence effect should be given to each and every clause of the scheme including the provision made for appointment of non-hereditary trustees.

4. The impugned order dated 04.07.1996 appears to have been passed by the Assistant Commissioner consequent upon the



amendment to the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act by virtue of the enactment of the Tamil Nadu Hindu Religious and Charitable Endowments (Special Provisions) Act (Act 23 of 1996). As per the amendment, the post of non-hereditary trustees in Hindu Religious Institutions stood abolished. The amendment came to be challenged in a batch of writ petitions and by a decision reported in the case of M.R.Subramanian and Others Vs. State of Tamil Nadu and Others (1997 L.W. 8), the amendment has been struck down.

5. It is primarily on the heel of the aforesaid amendment that the Assistant Commissioner/R2 has passed an order appointing R3 as the fit person. Thus, with the striking down of the amendment, the appointment of fit person in 1996 has to go. Order dated 04.07.1996 is thus quashed.

6. As an aside, I may state that the promptitude on display by the Assistant Commissioner in appointing the fit person is unfortunately, not seen in matters relating to the management and administration of the temple.

7. The Executive Officer, appointed in 1996 has not been seen till 2014, when by virtue of impugned order dated 02.07.2014, he calls upon the petitioner to hand over charge of the management of the temple. With the quashing of order dated 04.07.1996, consequential communication dated 02.07.2014 has no legs to stand and is also quashed.

8. The above order would serve to dispose the writ petition is full. However, there is one aspect that remains. The temple is presently being managed by the petitioner herein in his capacity as the Managing Trustee, continuing in management by virtue of an interim order of stay dated 12.08.2014.

9. Clauses 3 and 4 of the Scheme read as follows:

3. The temple of Arulmigu Karumariamman temple, Bellathi Village Mettupalayam Taluk, Coimbatore District shall be administered by a board of non-hereditary trustee not less than three and not more than five in number to be appointed as per clause 4 of the scheme by the appropriate authority under the provisions of the T.N.H.R. & C.E. Act, 1959 (T.N.Act 22 of 1959) as amended from time to time and rules made thereunder. The period of appointed trustees will commence from the date of election of Managing trustee or the Chairman Board of trustee as the case may be.



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4. The administration of the temple namely A/M Karumariamman temple, Bellathi Village, Mettupalayam Taluk, Coimbatore District shall vest in a Board of hereditary trustees consisting not less than three and not more than five in number to be constituted by the competent authority in accordance with the provisions of the Act 22 of 1959 from among the persons belonging to Okkaliga Gowder Community residing in Bellathi, Sikkaramdasampalayam, Marudoor revenue village in Mettupalayam Taluk and Pilichi Village in Coimbatore taluk and District provided that they do not suffer from any of the disqualification mentioned in Section 26 of the H.R. & C.E. Act as amended from time to time.

10. As per Clause 3, the temple in question is to be administered by a Board comprising of non-hereditary trustees, of not less than three, and not more than five, in number. These trustees are to be appointed in line with the stipulations in Clause 4, by the appropriate authority under the provisions of the HR&CE Act, as applicable. The period of the appointed trustees is stated to commence from the date of election of the management trustees or the Chairman of the Board of Trust, as the case may be. As per clause 4, the members of the Managing Committee are to be drawn from persons belonging to the Okkaliga Gowder Community, provided that they do not suffer any disqualifications as set out under the Act. Learned counsel for the petitioner is unaware as to whether there is an electoral roll maintained of members of the community.

11. In light of the above, the following directions are issued to set right the management of the temple and bring it line with the scheme that has been formulated and notified on 27.01.1995:

(i) an electoral roll of the members from the Okkaliga Gowder Community comprising of eligible persons as per the provisions of the HR&CE Act and the Scheme, shall be prepared within a period of two weeks from today.

(ii) Recommendations for the Board being 3 to 5 members shall be made by the leaders of the community taking note of the suggestions offered by members of the community and shall be forwarded to the Joint Commissioner within a period of two weeks thereafter. Let recommendations henceforth be made by the existing Board a month prior to the expiry of its tenure in order to ensure continuity of the Board.

(iii) Appropriate orders shall be passed by the Joint Commissioner constituting the Board within a period of two weeks



from the date when recommendations as above are received by the Joint Commissioner.

(iv) The procedure as above shall be scrupulously adhered to going forward subject to amendments, if any, in the applicable statutory provisions or the governing Scheme.

12. This writ petition is allowed in the aforesaid terms. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS VII)

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Sub Assistant Registrar

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To

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore Division,
Coimbatore District.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore,
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