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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.25674 OF 2021 AND W.M.P.NO.27115 OF 2021

R.Balakrishnan

... Petitioner

-Vs-

1. Government of Tamil Nadu
represented by the Secretary
H.R.&C.E., Department, Fort, Chennai.
2. The Commissioner
HR & CE Department, Nungambakkam,
Chennai.

... Respondents

Prayer :

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 18.11.2021 and to upload all details in the department's website also and to provide necessary portals for submission of filled up applications.

For Petitioner : Mr.B.Ravi
For Respondents : Mr.R.Shanmugasundaram, Advocate General
Assisted by Mr.T.Chandrasekaran,
Special Govt.Pleader

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 18.11.2021 and to upload all details in the department's website also and to provide necessary portals for submission of filled up applications.

2. The petitioner claims that, he is professing Hindu Religion and he possesses all the qualifications required to be appointed as a Trustee of a Hindu Temple. As a dutiful and



dedicated Hindu, he would like to serve the temple by taking active part in the management of temples.

3. The Government of Tamil Nadu, through the H.R.& C.E., Department, under the provisions of the H.R.& C.E., Act, 1959 (In short 'the Act') appoints trustees after inviting applications from the eligible persons in respect of each of the temples at various point of time. In this regard, it is the grievance of the petitioner that, when the petitioner, pursuant to the public notice issued in the news papers inviting applications from interested persons for consideration of their candidature to be appointed as trustees in various temples numbering about 23 in and around Chennai, in order to become a trustee of Arulmighu Thirumaniamman Thirukkoil, Anna Nagar, Chennai-40 and Arulmighu Maakaliamman Thirukkoil, Anna Nagar, Chennai-40, both are located in the Chennai city, approached the concerned temple office for getting a copy of the application for the purpose of filling it up and submit the same for the purpose of consideration of the same, as the last date fixed in the notification is 02.12.2021 before which the filled in application should be given, no such application was issued to the petitioner and when he made an enquiry, the officer concerned or the staff concerned of the temple administrative office concerned had expressed their inability to issue the application.

4. Based on these averments made in the affidavit filed in support of the writ petition, the petitioner has approached this Court by filing the present writ petition after giving some representation in this regard on 18.11.2021.

5. Heard Mr.B.Ravi, learned counsel for the petitioner, who would submit that, since there is a system of inviting applications from interested persons under the provisions of the Act for the purpose of considering their candidature to appoint trustees for various temples under the administration of H.R.& C.E., Department, once the notification is issued in this regard, the application form can be uploaded in the website of the H.R.&C.E. Department so that everyone who is interested to make an application, can download the same, accordingly they can fill up and give back the filled in application to the concerned temple or the H.R.&C.E., Department office. Therefore, for such a larger relief the petitioner has preferred this writ petition. Hence, the learned counsel for the petitioner seeks the indulgence of this Court to issue suitable direction by way of a Mandamus.

6. However, the learned Advocate General, who has appeared for the respondents, on instructions would submit that, insofar



as the appointment of trustees are concerned, it is governed by various provisions of the H.R.&C.E., Act, wherein, insofar as the qualification of the trustees to be appointed for temples under the H.R.&C.E., Department, it has been enumerated in Section 25A of the H.R.&C.E., Act and based on such qualifications, whoever wants to make an application, can make an application as application forms are very much available in the relevant H.R.&C.E., Department Joint Commissioner, Assistant Commissioner or Inspector offices as well as the offices of the H.R.&C.E., Department concerned at the said temples for which the proposal has been made to appoint trustees as per the notification issued in this regard from time to time.

7. Insofar as the present claim of the petitioner is concerned, according to the learned Advocate General, since the petitioner makes such a claim only in respect of the two temples located in Anna Nagar, Chennai, which are among the 23 temples for which notification has been issued now, applications are invited from interested persons to be submitted on or before 02.12.2021 before 05.45 P.M., ie., today.

8. In this regard, from which office those applications can be obtained by the interested persons also was given in the notification, according to which, apart from the the Joint Commissioners, Assistant Commissioners as well as Inspectors of the H.R.&C.E., Department concerned, in every temple administrative office, such application forms are available. Therefore, the petitioner can right now approach the concerned temple administrative office and get the empty application form and after having filled up the same, he can submit the same before 5.45 P.M., today, as the last date fixed in this regard is 02.12.2021 5.45 P.M. Therefore, there can be absolutely no impediment for the petitioner to get the application form in the said two temples.

9. Apart from the aforesaid submissions, the learned Advocate General has further submitted that, in respect of the omnibus prayer sought for by the petitioner to upload the application details and other details pertaining to the vacancy of the trusteeship of various temples in the website of the H.R.&C.E., Department, similar issue had already been raised by way of a Public Interest Litigation (PIL), which came up for consideration before the Madurai Bench of this Court in W.P.(Md) No.20163 of 2021 in the matter of "T.Balaji Krishnaswamy -Vs- State of Tamil Nadu and two others". In the said PIL, after hearing the parties concerned, a Division Bench of this Court by order dated 22.11.2021 has passed a detailed order, where such a plea raised in the said PIL had been negated. In this regard, the learned Advocate General has relied upon the following portions of the order passed by the Division Bench.



would suffice for the purpose of public scrutiny.

15. In such view of the matter, the demand of the petitioner in the name of public interest that particular format has to be followed and uploaded in the website is not justified and hence, the writ petition is dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed."

10. By relying upon this decision, the learned Advocate General would submit that, similar view has already been taken by a Special Division Bench of the Principal Seat of this Court. Therefore, the question of uploading all details including the application details in respect of each of the temple for the purpose of appointment of trustees may not be feasible and therefore the larger prayer sought for by the petitioner cannot be countenanced.

11. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

12. Insofar as the notification published for the purpose of appointment of trustees of the temple under the HR & CE Department is concerned, it has been provided in Section 25A of the H.R.&C.E., Act, which reads thus,

"25-A. Qualifications of trustees: A person shall be qualified for being appointed as, and for being, a trustee of any religious institution or endowment-

- (a) if he has faith in God;
- (b) If he possesses good conduct and reputation and commands respect in the locality in which the religious institution or endowment is situated;
- (c) If he has sufficient time and interest to attend to the affairs of the religious institution or endowment; and
- (d) if he possesses such other merits incidental thereto."

13. Therefore, whoever feels that he / she possesses such qualification as stated supra, where, if application is sought for, for the appointment of trustees in any temple under the control of the H.R.&C.E., Department for which notification is issued, certainly they can have the empty application from such offices of the H.R. & C.E., Department as well as the administrative offices of the temple concerned and they can fill



up the application and submit the filled in application on or before the last date.

14. With regard to the said procedure to be followed or had been followed so far by the H.R.& C.E., Department as has been rightly pointed out by the learned Advocate General appearing for the respondents, since the Division Bench in the order cited supra has already considered the issue and rejected the similar prayer sought for by the earlier Public Interest Litigant to upload all those details in the website and thereby the present procedure being adopted by the H.R.&C.E., Department has been approved, I am of the view that, insofar as the prayer sought for by the petitioner in this writ petition ie., the larger prayer to upload the details in the website is concerned, it is liable to be rejected.

15. However, insofar as the personal grievance of the petitioner that, though he wanted to make an application for becoming the trustee of the two temples as mentioned above, for which notification has been issued, even though he approached the office concerned, he could not get the application, the learned Advocate General has already submitted that, even now the petitioner can approach the concerned temple administrative office, where the applications would be available and after getting the same, he can fill it and submit the same before 5.45 PM today ie., 02.12.2021 being the last date.

16. When that being the position, the grievance of the petitioner since is resolved, as he has no further impediment to get the application from the said two temples, this Court feels that, by recording the aforesaid stand taken by the H.R.& C.E., Department as submitted by the learned Advocate General that, the petitioner can get the applications from those temples, this Court feels that this writ petition can be disposed of.

17. Accordingly, this writ petition is disposed of with the following order.

That it is open to the petitioner to visit the administrative office of the temples viz., Arulmighu Thirumaniamman Thirukkoil, Anna Nagar, Chennai-40 and Arulmighu Maakaliyamman Thirukkoil, Anna Nagar, Chennai-40, right now without even waiting for this order and after getting the applications from the concerned administrative office of the aforesaid temples, it is open to the petitioner to re-submit the same after filling it up before 5.45 p.m today.



18. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Secretary to Government,
Government of Tamilnadu
H.R.&C.E., Department, Fort, Chennai.
2. The Commissioner
HR & CE Department, Nungambakkam,
Chennai.

+1cc to Mr.B.Ravi, Advocate, S.R.No.62918
+1cc to the Government Pleader, S.R.No.63716

W.P.No.25674 of 2021

SSI (CO)
PM/14/02/2022