



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2021

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17312 of 2021

and

W.M.P. (MD) .No.14196 of 2021

S.Ramarpusari

... Petitioner

Vs.

The Executive Officer/Assistant Commissioner HR & CE
Arulmigu Irukkankudi Mariamman Thirukovi,
Irukkankudi, Sathur Taluk,
Virudhunagar District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order passed by the respondent in Na.Ka.No.199/2019/A6 dated 08.09.2021.

For Petitioner : Mr.M.V.Venkataseshan

For Respondent : Mr.V.R.Shanmuganathan

Mr.N.Dilip Kumar

For proposed respondent

ORDER

The petitioner challenges a communication dated 08.09.2021 from the Executive Officer of the Arulmigu Irukkankudi Mariamman Thirukovil, by which a meeting of the Board of Trustees was convened to be held on 24.09.2021.

2. The petitioner claims to be one of the hereditary trustees of the Temple. According to the petitioner, one trustee expired and there are ten (10) hereditary trustees at present. The communication is impugned primarily on the ground that the Executive Officer does not have the jurisdiction to convene a meeting of the Board of Trustees. In order to substantiate this contention, the petitioner relies upon Rule 2(2) of the Functioning of the Board of Trustees Rules. According to the petitioner, the said Rule requires a consultation between the Executive Officer and the Chairman of the Board of Trustees before a meeting is called. In addition, the petitioner relies upon Rule 4(3). By reference thereto, the petitioner contends that even a requisitioned meeting cannot be convened without the concurrence of the Chairman of the Board of Trustees.



3. The sole respondent refutes these contentions. Indeed, the sole respondent points out that the Executive Officer has convened such meetings and that the petitioner did not raise any objections over the last five (5) years.

4. Other hereditary trustees of the Temple seek to implead themselves. They dissent from the contention of the petitioner that the Executive Officer does not have the authority to convene such meetings. It is submitted on behalf of the proposed parties that the authority of the Executive Officer with regard to the convening of meetings is clear from the proviso to Rule 2(2).

5. Thus, it is evident that the petitioner's case rests entirely on the interpretation of Rule 2(2) and Rule 4(3). Rule 2(2) reads as under:-

"2.(1)...

2.(2).In the case of religious institutions having an Executive Officer, meeting shall be convened by the Executive Officer on such dates as he may fix in consultation with the Chairman of the Board of Trustees:

Provided that the Executive Officer shall himself fix the date for a meeting if the Chairman on a reference made to him in writing by the Executive Officer in that behalf, does not communicate his opinion to the Executive Officer within the time specified in such reference"

6. Upon perusal thereof, it is clear that the power to convene meetings has been vested in the Executive Officer. As regards fixation of dates, the Executive Officer may fix the dates in consultation with the Chairman of the Board of Trustees. As correctly pointed out by learned counsel for the proposed parties, the proviso thereto clarifies that even the fixation of dates may be done by the Executive Officer without consulting the Chairman of the Board of Trustees, if he does not communicate his opinion to the Executive Officer within the time specified in such reference. In the case at hand, admittedly, there is no Chairman of the Board of Trustees. Given the primacy accorded to the Executive Officer with regard to convening of meetings, it cannot be said that the Executive Officer loses such power merely because he is unable to consult the non-existent Chairman of the Board of Trustees. Rule 4(3) was also relied upon. Rule 4(3) reads as under:-

"4.(1)...

4.(2)...

4.(3).The Executive Officer or the Chairman of the Board of Trustees, as the case may be, shall, on requisition in writing of not less than



two trustees, convene a meeting, specifying the purposes of the meeting and giving at least five days notice."

7. This Rule applies only to requisitioned meetings. The present meeting is not a requisitioned meeting. Therefore, this Rule is irrelevant. Even otherwise, the said Rule uses the disjunctive 'or' between the Executive Officer and Chairman and thereby indicates that either of them can convene the requisitioned meeting.

8. Therefore, the petitioner has completely failed to make out a case that the Executive Officer does not have the authority to convene the meeting. Hence, W.P.(MD).No.17312 of 2021 is dismissed without any order as to costs. Consequently, W.M.P.(MD).No.14196 of 2021 is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/nsr

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 Executive Officer/Assistant Commissioner HR & CE
Arulmigu Irukkankudi Mariamman Thirukovi,
Irukkankudi, Sathur Taluk,
Virudhunagar District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-31110[F] dated 04/10/2021)

W.P(MD)No.17312 of 2021

01.10.2021

MGJ(08.10.2021) 3P 3C