



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)Nos.17717 of 2020, 1, 370, 1434, 1806 of 2021

and

WMP(MD)Nos.14804 & 14806 of 2020, 1, 2, 3, 288, 290, 1223, 1225, 1541 & 1542 of 2021

in WP(MD)No.17717 of 2020 :

11 Oor 24 Manai Sri Santhakula Sowmiya
Narayana Kavaraya Samootha Nala Sangam,
234, Gandhi Road, Palani,
Rep.by its President R.Rajaram ... Petitioner

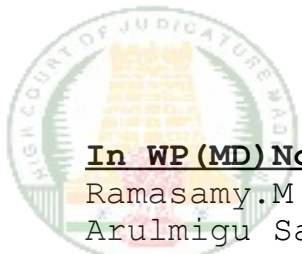
Vs.

- 1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
B-1 Road, Ellis Nagar,
Madurai - 625 016.
- 2.The Executive Officer,
Arulmighu Gopinathasamy Temple,
Reddiarchatram,
Dindigul West Taluk,
Dindigul District.
- 3.The Fit Person,
Arulmigu Santha Kula Sowmiya Narayana Kavaraya Kattalai,
Palani, Palani Tk, Dindigul District. ... Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned list of the 3rd respondent for conducting Executive Committee Meeting for election of trustees on 03/12/2020 uploaded in the website www.sksngkattalaipalani.org on 01/12/2020 and quash the same as illegal and consequently direct the 3rd respondent to collect the proper Executive Committee members list from the concerned 11 village office bearers as per the order passed by this Honble Court on 28/08/2020 in WP(MD)No.8164/2020.

For Petitioner : Mr.R.R.Kannan
For Respondents : Mr.K.P.Narayanakumar
Special Government Pleader
for R1

Mr.A.K.Baskarapandian
for R2 and R3.



In WP(MD)No. 1/ 2021

Ramasamy.M S/o. Marutha Nayudu, GB Member,
Arulmigu Santha Kula Sowmiya Narayana Kavaraya Kattalai,
Palani, Dindigul District
Res. At. 19, Tasildhar Nagar,
Sathamangalam ,Madurai-20.

... Petitioner

- Vs. -

1. The Joint Commissioner H.R. and C.E.Department, Madurai
2. The Joint Commissioner H.R. and C.E.Department, Dindigul
3. The Inspector H.R. and C.E.Department, Palani Dindigul District
- 4.The Fit Person Arulmigu Santha Kula Sowmiya Narayana Kavaraya
Kattalai, Palani/
The Executive Officer,
Arulmigu Gopinathaswami Thirukovil,
Reddiyarchathiram, Dindigul District
5. R.Senthilkumar
6. V.Balakrishnan
7. M.Arumugam

... Respondents

Prayer in WP(MD)No. 1/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the 3rd respondent in his proceedings in Na.Ka.No.130/2020 dt. 30.12.2020 quash the same as illegal and pass such further or other order as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

FOR PETITIONER : MR.MANICKAM. A.K

FOR RESPONDENT : K.P.NARAYANAKUMAR

SPL.GP FOR R1 TO R3

MR. G.PRABHURAJADURAI FOR R7

MR.BASKARA PANDIAN FOR R4

MR.VEERAKATHIRAVAN SR.COUNSEL FOR

VEERA ASSOCIATES FOR R6

In WP(MD)No. 370/ 2021

Salvaraj. M.K.

... Petitioner



- Vs. -

1.The Joint Commissioner Hindu Religious and Charitable Endowments
Department, B1 Road, Ellis Nagar, Madurai 625 016

2.The Fit Person Arulmigu Santhakula Sowmya,
Narayana Kavaraya Kattalai, Palani, Palani Taluk,
Palani District

3.The Executive Officer Arulmighu Gopinathasamy Temple,
Reddiarchatram, Dindigul West Taluk, Dindigul District

4.The Inspector Hindu Religious and Charitable Endowments,
Palani, Palani Taluk, Dindigul District

5.V.Balakrishnan

6. M.Arumugam ... Respondents

Prayer in WP(MD). 370/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorarified mandamus or any other appropriate writ or order or direction in the nature of writ calling for the records of the impugned order passed by the 1st respondent in his Proceedings Se.Mu.Na.Ka.No.6093 of 2020 A1 dated 15.12.2020 and quash the same as illegal and consequently direct the 1st respondent to pass order by declaring the petitioner as the trustee of Arulmigu Santhakula Sowmya Narayana Kavaraya Kattalai, Palani as per the election conducted on 03.12.2020 and as per the order passed by this Honble Court on 28.08.2020 in WP(MD).No.8164 of 2020.

FOR PETITIONER : M/S.GUHASEELARUPAN. C

FOR RESPONDENTS : MR.BASKARPANDIYAN.A.K. FOR R2 & R3

MR.K.P.NARAYANAKUMAR FOR R1 & R4

MR.VEERAKATHIRAVAN SR.COUNSEL FOR R5

MR. G.PRABHURAJADURAI FOR R6

In WP(MD). 1434/ 2021

11 Oor 24 Manai Sri Santhakula Sowmiya,
Narayana Kavaraya Naicker Samoocha Nala Sangam, 234 Gandhi Road
Palani Represented by its President R.Rajaram S/o. Rengaraj Naidu
No.6 Nethaji Road,Shanmugapuram,Palani, Dindigul District

... Petitioner(s) in WP(MD). 1434/ 2021

- Vs. -

1.The Joint Commissioner Hindu Religious and Charitable Endowments
Department Plot No.49 M.R.S Nagar Mullipadi Village, Seelapaddi

<https://hcservices.ecourts.gov.in/hcservices/>



Post, Dindigul East Tk. Dindigul

2. The Joint Commissioner Hindu Religious and Charitable Endowments
Department B-1 Road Ellis Nagar Madurai-625 016

3. V. Balakrishnan Chairman Board of Trustees, Arulmigu Santha Kula
Sowmya Narayana Kavaraya Kattalai, Palani Palani Taluk Dindigul
District-624 601

... Respondents

Prayer in WP(MD). 1434/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or Order or Direction in the nature of Writ calling for the records of the impugned order of the 3rd respondent dated 13.1.2021 and consequently direct the 2nd respondent to conduct the Thai Poosam Festival on 28.01.2021 by the 2nd respondent Department in Arulmigu Santha Kula Sowmya Narayana Kavaraya Kattalai situated at Palani.

FOR PETITIONER : M/S.KANNAN.R.R

FOR RESPONDENTS : M.R.K.P.NARAYANAKUMAR

SPECIAL GOVERNMENT PLEADER FOR R1 & R2

MR.VEERAKATHIRAVAN SR.COUNSEL FOR

VEERA ASSOCIATES FOR R3

In WP(MD). 1806/ 2021

11 Oor 24 Manai Sri Santhakula Sowmiya, Narayanan Kavaraya Naicker
Madurai Uravinmurai Sangam, 81, North Veli Street , Simmakal ,
Madurai - 625001, Rep by its Chairman M.Ramasamy

... Petitioner

- Vs. -

1. The Joint Commissioner Hindu Religious and Charitable
Endowments Department , B-1 Road, Ellis Nagar, Madurai - 625016.

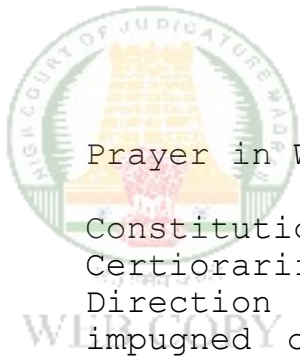
2. The Executive Officer Arulmighu Gopinathasamy Temple,
Reddiarchatram , Dindigul West Taluk, Dindigul District.

3. The Fit Person , Arulmigu Santhakula Sowmya Narayana Kavaraya
Kattalai, Palani , Palani Taluk, Now Office at Executive Officer,
Arulmighu Gopinathasamy Temple , Red

4. The Inspector Hindu Religious and Charitable Endowments
Department , Palani , Palani Taluk, Dindigul District .

5. V. Balakrishnan S/o.M.Rengasamy , Door No. 8/8(2), Erumakkara
Street , Palani , Dindigul District - 624601

6. The Joint Commissioner Hindu Religious and Charitable
Endowments Department , Plot No. 49, M.R.S.Nagar , Mullipadi Village
, Seelapaadi Post , Dindigul East Taluk, Dindigul



... Respondents

Prayer in WP(MD). 1806/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other appropriate Writ or Order or Direction in the nature of Writ calling for the records of the impugned order passed by the 1st respondent in his proceedings Se.Mu.Na.Ka.6093/2020 Aa1 dated 15/12/2020 and quash the same as illegal and consequently directing the 1st respondent to remove the 5th respondent from the post of trustee of Arulmigu Santhakula Sowmya Narayana Kavaraya kattalai situated at Palani as per the representation of the petitioner dated 05/01/2021.

FOR PETITIONER : C.GUHASEELARUPAN

FOR RESPONDENT : MR.K.P.NARAYANAKUMAR

SPECIAL GOVERNMENT PLEADER FOR R1, R4 & R6

MR.BASKARA PANDIAN FOR R2 & R3

MR.VEERAKATHIRAVAN SR.COUNSEL FOR
VEERA ASSOCIATES FOR R5

ORDER

Heard the learned counsel on either side.

2.The case on hand pertains to the election held for appointing the trustees of Santhakula Sowmya Narayana Kavaraya Samootha Nala Sangam. The election was triggered by the order dated 28.08.2020 passed by this Court in a batch of writ petitions. Vide order dated 27.05.2019, the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai appointed fit person for the said endowment. Challenging the same, WP(MD)Nos.13012 of 2019 & 14561 of 2019 were filed. One Parasuraman filed WP(MD)No.8164 of 2020. There is no dispute that administration of the endowment is governed by a statutory scheme. Originally, such a scheme was framed in O.A No.336 of 1939. It was later modified vide order dated 25.04.1986 in O.A No.43 of 1984. Clause 4 and 5 of the modified scheme read as follows :

"4.The Santhakula Sowmia Narayana Kavaraya Community Endowments shall be administered by 3 trustees appointed by the appropriate authority of HR&CE Dept., having jurisdiction over the place of endowments office.

5.The members of Santhakula Sowmia Narayana Kavaraya Community shall elect 3 persons from amongst them and submit to the Department for appointment as such trustees. The term of office of the said Trustees will be for 3 years. The trustees so elected shall elect a Chairman amongst them who will transact business as per rules framed under Section 47 and 48 of

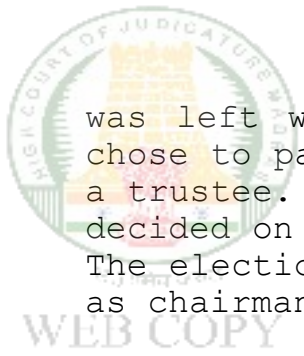


rights, duties and honours conferred or imposed on them by the Act and Rules framed thereunder. The Chairman shall call for the General body meeting, one month before the expiry of the term of Board."

3.I directed the fit person appointed by the HR&CE to prepare the list of general body members and hold the election in terms of the said scheme and the settled practice. Pursuant to the direction given by this Court, the fit person published the list of 60 members constituting the general body in the website of the department. This was done on 02.11.2020. Objections were also invited. After considering the objections, the names of two persons were deleted. Thereafter, election was held on 03.12.2020 at Marutham Mahal, Palani. There is no dispute that only five persons submitted their nominations. They are, namely, J.P.Mohandoss, M.Arumugam, V.Balakrishnan, Senthilkumar and M.K.Salvaraj. Thiru.Arumugam did not affix his signature in the declaration form. Therefore, his name came to be rejected. The name of Thiru.J.P.Mohandoss was also rejected for the reason that the community certificate enclosed by him along with the nomination form was defective. Thus, as against the vacancy for three posts, there were three candidates. They were originally elected. In the minutes book, this was duly recorded. In fact, Thiru.Guhaseelarooban, the learned counsel for two of the petitioners would state that on the said date the three successful candidates were garlanded and that they were felicitated. It was also videographed. Since Clause III of the modified scheme talks of appointment of trustees by the Joint Commissioner, the fit person rightly forwarded the minutes for consideration to the Joint Commissioner, HR&CE, Madurai.

4.The learned counsel for Mr.Arumugam pointed out that the community certificate enclosed by Thiru.M.K.Salvaraj shows that he belongs to Yadhava community. Therefore, the candidature of M.K.Salvaraj was asked to be struck off. This objection was communicated to M.K.Salvaraj and after getting his reply, the fit person struck off his name from the list of trustees. Thereafter, the names of only two candidates, namely, Balakrishnan and Senthilkumar were forwarded by the fit person for consideration of the Joint Commissioner, HR&CE, Madurai.

5.At this juncture, Thiru.Arumugam submitted a representation to the Joint Commissioner, HR&CE, Madurai pointing out that his application came to be rejected only on a technical ground and that therefore, he should be considered. He also filed WP(MD)No.19210 of 2020. Vide order dated 23.12.2020, a learned Judge of this Court directed the Joint Commissioner, HR&CE to take a call in the matter. Pursuant to the said direction, the Joint Commissioner, took the view that the rejection of Arumugam as a candidate should be revisited. The Joint Commissioner had earlier passed an order appointing Thiru.Balakrishnan and Senthilkumar as trustees. This was on 15.12.2020. Since there was no further claim and the field



was left with the candidature of Arumugam, the Joint Commissioner chose to pass an order dated 26.12.2020 appointing Thiru.Arumugam as a trustee. Since the board of trustees was thus constituted, it was decided on 30.12.2010 to hold the election for the post of Chairman. The election was held on 04.01.2021. Thiru.Balakrishnan was elected as chairman of Board of Trustees.

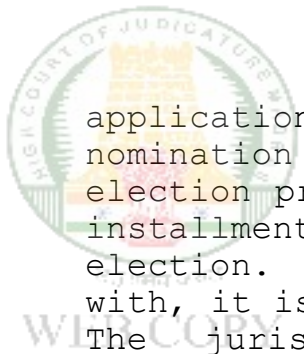
6. In WP(MD)No.1806 of 2021, what is under challenge is the order passed by the Joint Commissioner appointing Thiru.Balakrishnan and Senthilkumar as trustees. In WP(MD)No.17717 of 2020, what is under challenge is the list of general body members as finalized by the fit person. In WP(MD)No.1434 of 2021, the decision of the board for conducting the Thai Possam festival came to be challenged. In WP(MD)No.370 of 2021, Thiru.M.K.Salvaraj has challenged the order dated 15.12.2020 whereby Balakrishnan and Senthilkumar were appointed as trustees.

7. After carefully considering the rival contentions and going through the materials on record, I must note that there is no serious challenge to the list of general body members finalized by the fit person. It is true that the fit person proposed the names of 60 persons as constituting the general body. Following receipt of objections, two names were later deleted. Persons who have been left out from the list of persons and those who have been deleted have not come before this Court to question the constitution of the general body. This Court has to necessarily take note of the fact that the list of general body members has nowhere been put to challenge by any aggrieved individual. I therefore hold that the list of general body members as finalized already stands approved.

8. Next comes the validity of the orders appointing the board of trustees. It is beyond dispute that originally five persons contested for three posts of trustees and that two of the applications were rejected. Out of 58, 57 members took part in the general body meeting held on 03.12.2020. They had originally elected the following three persons, namely, Thiru.Balakrishnan, Senthilkumar and M.K.Salvaraj. It is true that a serious challenge was mounted against the very eligibility of Salvaraj to stand for the election. But then, the question is how this objection should have been dealt with. It was certainly not open to the fit person who acted as the returning officer to have put the clock back. When once the general body had declared that three persons were elected unanimously, the ball was next in the court of the Joint Commissioner. He should have been taken a call in the matter as to whether to approve the election or not. If the Joint Commissioner was of the view that the election was not properly conducted, the only course of action would be to re-convene the general body meeting and hold a fresh election.

9. But what happened in this case was something else. The

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application of Thiru.Arumugam was rejected for some reason. But his nomination was validated by the Joint Commissioner after the election process was already over. Matters have been dealt with on installment and piece-meal basis. Therefore, I set aside the election. Since I have held that the election process was tinkered with, it is only just and proper that a fresh election is conducted. The jurisdictional Joint Commissioner will issue a fresh notification for convening the general body meeting and holding the election afresh.

10. I make it clear that the issue of number of members constituting the general body has already attained finality and will not be revisited. In other words, the general body of this endowment will comprise only 58 members. But then, the contention urged by Thiru.Prabhu Rajadurai, the learned counsel for Arumugam cannot casually be brushed aside. He would point out that the person competing for the post of trustee will have to place certain documents for consideration. One of the documents would be the community certificate. Therefore, it is the duty of the candidate in question to furnish the requisite community certificate. The community certificate will have to necessarily mention that the candidate is belonging to Kavara community. If the person standing for the post of trusteeship is unable to produce the community certificate showing that he belongs to the Kavara community, then, he obviously cannot contest for the election. Thiru.Salvaraj is no doubt a member of the general body. Whether he can continue as its member is a decision that can be taken only by the general body. However, he cannot insist that he should on that score be automatically entitled to contest for the post of trustee. Then his very position as a general body member may become untenable. If disputes arise regarding the same, it is certainly open to the person concerned to avail legal remedies to get declaration regarding his status. The impugned administrative set up will continue till the new set of trustees are elected. The jurisdictional Joint Commissioner will complete the entire exercise within a period of five months from the date of receipt of copy of this order.

11. The writ petitions are disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

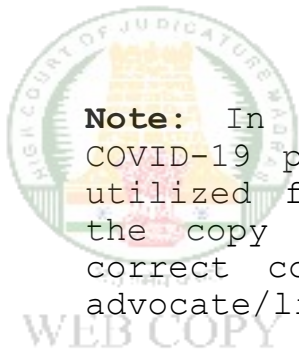
Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

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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:

- 1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department, B-1 Road, Ellis Nagar,
Madurai - 625 016.
- 2.The Executive Officer,
Arulmighu Gopinathasamy Temple,
Reddiarchatram,
Dindigul West Taluk,
Dindigul District.
3. The Joint Commissioner H.R. and C.E.Department, Dindigul
- 4.The Inspector H.R. and C.E.Department, Palani Dindigul District.

+1 CC to M/s A.K.BaskaraPandian,Advocate,in SR.No.4512.
+1 CC to Special Government Pleader SR.No.4922 & 4925.
+1 CC to M/s G.PRABHURAJADURAI ,Advocate,in SR.No.4497.
+2 CC to M/s GUHASEELARUPAN,Advocate,in SR.No.4562 & 4561.
+1 CC to M/s.R.R.KANNAN, Advocate (SR-4532[F] dated 11/02/2021)

**WP(MD)Nos.17717 of 2020, 1,
370, 1434, 1806 of 2021
10.02.2021**

(MJ) CO

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