



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18824 of 2021

and

W.M.P. (MD) .Nos.15637 and 15638 of 2021

WEB COPY

M.Thangaraj

... Petitioner

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious and
Charitable Endowment Department,
Madurai at present Dindigul.

3.The Managing Trustee,
Arulmigu Kottaimariamman Temple,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus, to call for the records of the third respondent dated 06.08.2021 issued for filling up of the office of trusteeship which fell vacant due to the death of S.M.D.R.Kamalanathan on 21.05.2021, quash the same, as the same is arbitrary, ultravires, in complete contravention to the judgment and decree dated 06.03.1978 made in A.S.No.48/1975, and consequentially direct the third respondent to consider the application presented by petitioner for appointment as trustee on 06.06.2021 in consonance with the judgment and decree dated 06.03.1978.

For Petitioner : Mr.R.G.Shankar Ganesh
For R-1 and R-2 : Mr.P.Subbaraj,
Counsel for State.
For R-3 : Mr.V.R.Shanmuganathan

ORDER

The petitioner assails a notice dated 06.08.2021 by which applications were called for appointment of a hereditary trustee from duly qualified near relatives.

2. The said notice is assailed by the petitioner by relying upon the judgment in O.S.No.55 of 1969 and A.S.No.48 of 1975. The petitioner states that the eligibility for applying to



the post should not be restricted to near relatives of the deceased hereditary trustee.

3. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 and 2 and Mr.V.R.Shanmuganathan, learned Standing Counsel, accepts notice on behalf of the third respondent. Mr.V.R.Shanmuganathan points out that an earlier notice on the same lines had been issued on 18.12.2019. Such notice was assailed in W.P.(MD).No.8330 of 2019 and related cases. By order dated 25.02.2020, he points out that the said Writ Petitions were disposed of by directing the petitioners concerned to approach the Joint Commissioner of the Hindu Religious and Charitable Endowments Department to seek the relief prayed for in the Writ Petition. He also points out that pursuant to the impugned notice, the selection of the hereditary trustee has been made and forwarded to the Joint Commissioner for approval. As such, he submits that the Writ Petition is not maintainable and that the petitioner should approach the Joint Commissioner.

4. Upon considering the aforesaid submissions, it is clear that the petitioner has an alternative remedy before the Joint Commissioner. In previous Writ Petitions which dealt with the same subject, the petitioners were directed to approach the Joint Commissioner.

5. Accordingly, W.P.(MD).No.18824 of 2021 is disposed of without any order as to costs by leaving it open to the petitioner to approach the Joint Commissioner of the Hindu Religious and Charitable Endowments Department to seek the relief prayed for herein. Consequently, W.M.P.(MD).Nos.15637 and 15638 of 2021 stand closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM/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

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious and
Charitable Endowment Department,
Madurai at present Dindigul.

+1 CC to M/s.SPL.GP (SR-33350[F] dated 01/11/2021)

W.P (MD) No.18824 of 2021
29.10.2021

MMS (CO)

GC/PM(17.11.2021) 3P 4C