



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.834 OF 2022

AND

W.M.P.NO.911 OF 2022

(Through Video Conferencing)

1. A.Kanna,
S/o.Appavu Achari.
2. S.Thirumurugan,
S/o.N.Sivagnanam.
3. S.Panchatcharam,
S/o.Shanmugam.
4. K.Murugavel,
S/o.Kannan.
5. D.Usharani,
W/o.Annamalai.

... Petitioners

.Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
The Hindu Religious and Charitable
Endowments Department,
Secretariat,
Chennai - 600 009.
2. The Commissioner,
The Hindu Religious and Charitable
Endowments Department,
Nungambakkam,
Chennai - 600 034.
3. The Joint Commissioner,
The Hindu Religious and Charitable
Endowments Department,
Villupuram,
Villupuram District.

... Respondents



PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 3rd respondent to submit his report to the 2nd respondent in response to the communication dated 11.01.2021 made in Oo.Mu.No.70538/2021/A1 issued by the 2nd respondent, to enable the 1st respondent to consider our names for the appointment to the posts of Trustees of A/m. Vellai Vinayagar and Balasubramaniam Thirukovil, Thirukovilur Village, Kallakurichi District by considering the representation dated 22.09.2021.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.T.Chandrasekaran
Special Government Pleader

ORDER

The writ of Mandamus is filed directing the third respondent to submit his report to the second respondent in response to the communication dated 11.10.2021 made in Oo.Mu.No.70538/2021/A1 issued by the second respondent to enable petitioners names for the appointment to the posts of trustees of A/3. Vellai Vinayagar and Balasubramaniam Thirukovil, Thirukovilur Village, Kallakurichi District by considering the representation dated 22.09.2021.

2. The petitioner states that in response to the advertisement dated 20.06.2017 issued by the Inspector, Hindu Religious and Charitable Endowment Department, the community association of the petitioners has passed a resolution dated 02.07.2017 in the Special General Body Meeting by recommending 7 names including the petitioners for appointment of the trustees of the temple. The said resolution dated 02.07.2017 along with list of persons have been submitted before the third respondent, Joint Commissioner, H.R.&C.E. Department. It is contended that the third respondent has selected five persons out of seven names given by the community association. This development occurred in the year 2017-18.

3. The Learned Special Government Pleader appearing on behalf of the HR & CE Department states that in respect of the resolution of the year 2017 cannot be relied upon at this length of time as the period of two years has expired, therefore, the resolution allegedly passed by the community association in the year 2017 cannot be acted upon now and further the period itself is over. Therefore, the Department has to issue a fresh notification inviting applications from the eligible persons.



The learned Special Government Pleader relying on the written instructions given by the Joint Commissioner, H.R.&C.E. Department in proceedings dated 22.01.2022 state that notification has not been issued so far and only after issuing the notifications, the petitioners are at liberty to submit their respective applications for appointment of trustees. Before issuing a notification, the question of considering the application would not arise at all. Thus, the writ petition is pre-matured and is liable to be rejected.

4. In respect of the notification of the year 2017, as stated by the petitioner the period expired and therefore, the respondents have to issue a fresh notification. This apart, the community decision of the year 2017 cannot be acted upon after this length of time as fresh notification is to be issued by the Department inviting applications. In all respects the notice of the year 2017 lost its relevance and therefore, the respondents are bound to issue a fresh notification inviting applications for appointment of trustees. The learned special Government Pleader also made a submission that the respondents have to issue notification afresh inviting applications. Thus the petitioners are at liberty to submit their applications only after issuance of appropriate notification by the competent authority inviting applications. In the event of filing of any such application, the same has to be considered alongwith all other applications filed seeking appointment.

5. Unless an appropriate notification is issued by the competent authority, the cause would not arise for the filing of the writ petition. Thus, the petitioners have not established any right in view of the fact that the notifications are yet to be issued.

6. This writ petition stands disposed of with the above observations. Consequently, connected writ miscellaneous petition is also closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nst/cse



To

1. The State of Tamil Nadu
Rep by its Secretary to Government,
The Hindu Religious and Charitable
Endowments Department,
Secretariat,
Chennai - 600 009.
2. The Commissioner,
The Hindu Religious and Charitable
Endowments Department,
Nungambakkam,
Chennai - 600 034.
3. The Joint Commissioner,
The Hindu Religious and Charitable
Endowments Department,
Villupuram,
Villupuram District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.4505
+1cc to the Government Pleader, S.R.No.4955

W.P.NO.834 OF 2022 AND
W.M.P.NO.911 OF 2022

GPL (CO)
PBS/14/02/2022