



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.632 of 2022

S.Vadivel

.. Appellant/ Petitioner

Vs

- 1.The Principal Secretary to Government,
Tourism, Culture and Endowments Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner,
HR & CE Department,
Nungambakkam,
Chennai - 600 034.
- 3.The Joint Commissioner,
HR & CE Department,
Perunthitta Valagam,
Villupuram, Villupuram District.
- 4.The Assistant Commissioner-cum-
Executive Officer,
A/M Angalamman Thirukoil,
Mel Malayanoor,
Gingee Taluk,
Villupuram District - 604 204.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 16.02.2022 in W.P.No.24783 of 2021.

Prayer in W.P.No.24783 of 2021: This Writ Petition filed under Article 226 of the Constitution of India to call for the records relating to G.O.Ms.No.134 dated 13-10-2021 issued by Tourism, Culture and Endowments Aa.Ne.(3-1) department 1st respondent herein and quash the same as illegal.



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For the Appellant : Mr.T.N.Rajagopalan

For the Respondents : Mr.N.R.R.Arun Natarajan
Spl. Govt. Pleader (HR & CE)
for respondent Nos.1 to 3

: Mr.S.Sithirai Anandan
for respondent No.4

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge is made to the judgment dated 16.2.2022 by which the writ petition preferred by the appellant was dismissed.

2. The writ petition was filed to challenge the order dated 13.10.2021 issued by the Tourism, Culture and Endowments Department granting approval for elected trustees of Arulmigu Angalamman Temple situated at Mel Malayanoor, Gingee Taluk, Villupuram District.

3. The facts of the case show that for the management of the temple in question, a scheme was formulated on 27.1.1936. As per the scheme so framed, seven trustees are to be elected, one each from seven branches of families. The term of office of the trustees was one year, which was subsequently raised to three years. The first respondent, thereupon, issued a government order dated 15.12.2015 confirming the term of office of the trustees as two years from the date on which the Chairman of the Board of Trustees is elected and, presently, the said government is in operation.

4. In the instant case, the election of the trustees took place on 30.12.2019 and, accordingly, result was declared. As per the scheme and the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [for brevity, "the Act of 1959"], the tenure of the elected trustees is two years and the period, according to the appellant, expired on 30.12.2021 itself and, therefore, the election of new trustees should have taken place. However, instead of holding fresh elections, the respondent authorities issued G.O.Ms.No.134, dated 13.10.2021 approving the election of trustees on 30.12.2019 and stating that they will hold the post of trustees for a period of two years from the date of election of Chairman.

5. Learned counsel for the appellant submits that as per the provisions of Sections 47 and 48 of the Act of 1959, the



term of office of the trustees was only for a period of two years and the period expired on 30.12.2021. However, the respondent authorities vide the government order dated 13.10.2021 while permitting the trustees to select a Chairman, stated that the trustees of the temple shall hold the post for a period of two years from the date of election of the Chairman of the Board of Trustees. In the case on hand, the Chairman was elected on 16.2.2022 and it is, therefore, submitted that by no stretch of imagination the tenure of trustees elected on 30.12.2019 could be extended for two years from 16.2.2022.

6. Learned counsel for the appellant referred to the orders passed by the learned Single Judge pending hearing of the writ petition requiring the State Government to explain the reason for the delay in granting approval of the election of the trustees held on 30.12.2019. On the first occasion, no affidavit explaining the delay was given and, therefore, extending the period for filing the affidavit, another order was passed, but despite such extension, no affidavit was filed. He, therefore, submitted that the period of two years should have been counted from 30.12.2019 and, accordingly, the tenure of two years should be from the date of election and not from the date of approval by the Government or election of the Chairman. Accordingly, he prayed for setting aside the judgment passed by the learned Single Judge.

7. We have considered the submission made by learned counsel for the appellant and perused the records.

8. The facts which are not in dispute are that the trustees were elected on 30.12.2019. The list of elected trustees was forwarded to the government for approval by the second respondent. The approval was granted by the government order dated 13.10.2021, which was the subject-matter of challenge in the writ petition. Though the delay in granting approval was not initially explained before the learned Single Judge, a counter affidavit was filed by the respondent authorities and it was averred that after election, verification of antecedents, qualification, etc., of the elected trustees was done and due to the pandemic Covid-19, the verification process could not be completed immediately. Considering the aforesaid explanation acceptable, the learned Single Judge did not find any reason to cause interference in the order passed by the respondent authorities.

9. At this stage, learned counsel for the appellant submits that the tenure of the trustees is to be reckoned from the date of election and there is no provision in the Act of 1959 which permits the tenure of two years from the date of approval of the election of the trustees by the State Government or from the



date of election of the Chairman. He added that during the intervening period, the trustees had arranged for some programme in the temple and, therefore, they have taken charge of the post.

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10. The aforesaid has been seriously controverted by learned Special Government Pleader appearing for the respondent authorities. He submits that a perusal of the judgment of the learned Single Judge shows that the trustees have not taken charge in the intervening period and, in any event, the trustees are entitled to hold the post for a period of two years from the date of election of the Chairman.

11. In view of the above submission made by learned Special Government Pleader and in the absence of any material to show that trustees have taken charge immediately after their election, we cannot accept the statement of learned counsel for the appellant that the trustees had already taken charge.

12. Learned counsel for the appellant though initially stated that Section 47 of the Act of 1959 would not be applicable to the facts of the case, later on submitted that tenure of the trustees of two years is governed by the principle enumerated in Section 47(3) of the Act of 1959. However, he submitted that there is no provision in the scheme which stipulates that the term of elected trustees shall commence from the date of election of the Chairman.

13. Learned Special Government Pleader submits that Section 47(1)(a)(iii) of the Act of 1959 applies to this case and added that pursuant to the government order issued by the respondents, the period of two years has to be reckoned from the date of election of the Chairman, i.e., from 16.2.2022, and, therefore, the tenure of the trustees has not yet expired.

14. A perusal of the government orders dated 15.12.2015 and 13.10.2021 shows that the tenure of two years of the trustees would be reckoned from the date of election of the Chairman, Board of Trustees and the argument of learned counsel for the appellant that the tenure has to be reckoned from the date of election of trustees runs counter to the aforesaid government orders.

15. In view of the above, we find no reason to take a different view than the one taken by the learned Single Judge. However, we make it clear that the respondent authorities should approve the election of trustees at the earliest and if verification of antecedents, qualifications, etc. is to be conducted, it would be without lapse of time, rather it should be completed within one month, subject to extension for



justifiable reasons to be recorded. That apart, the respondent authorities should strictly adhere to the Functioning of the Board of Trustees Rules, which stipulates the time period within which the Chairman should be elected.

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For the foregoing reasons, the appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.4456 of 2022 is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Tourism, Culture and Endowments Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner,
HR & CE Department,
Nungambakkam,
Chennai - 600 034.

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4.The Assistant Commissioner-cum-
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A/M Angalamman Thirukoil,
Mel Malayanoor,
Gingee Taluk,
Villupuram District - 604 204.

+1cc to Mr.S.Sithirai Anandam, Advocate, S.R.No.190311
+1cc to Mr.T.N.Rajagopalan, Advocate, S.R.No.18993
+1cc to the Special Government Pleader, S.R.No.19377

W.A.No.632 of 2022

RSI (CO)
SB(28/03/2022)