



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WRIT PETITION NOS.10149 AND 10162 OF 2022

1. Kamalapathy Charitable Trust
14, Bharathi nagar
Kavelcherry Road
Thirumazhisai
Thiruvallur District
Thiruvallur - 600 124
Represented by its Trustee
Mr.S.Srinivasan

2. R.Balaji

3. V.S.Velaayutham

.. Petitioners in both WPs.

Vs.

1. The Executive Officer
Arulmigu Thirukacchi Nambigal and
Varadaraja Perumal Thirukoil
Poonthamallee
Thiruvallur - 600 056
Thiruvallur District.

2. The Commissioner
Hindu Religious and Charitable Endowments
119, Uthamar Gandhi salai
Nungambakkam
Chennai-600 034.

3. Nandu

.. Respondents in both WPs.

Prayer in W.P.No.10149 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 not to make any appointment to Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil at Poonthamallee in violation of Vaikanasa Agama and without authority of the Trustees under Section 55 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.



Prayer in W.P.No.10162 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to furnish to the petitioners the information and copy of documents sought by the petitioners in their representation dated 14.02.2022 to the respondents 1 and 2 so as to enable the petitioners to challenge the appointment of respondent No.3 before the competent authority under the TN HR & CE Act, 1959 within the time frame as may be fixed by this Court.

In both WPs.

For Petitioners : Mr.S.Sridharan

For R1 : Mr.A.K.Sriram

For R2 : Mrs.M.Geetha Thamaraiselvan
Special Government Pleader

COMMON ORDER

W.P.No.10149 of 2022 is filed for a direction to the respondents 1 and 2 not to make any appointment to Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil at Poonthamallee in violation of Vaikanasa Agama and without authority of the Trustees under Section 55 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the H.R. & C.E. Act').

W.P.No.10162 of 2022 is filed for a direction to the respondents 1 and 2 to furnish to the petitioners the information and copy of documents sought by them in their representation dated 14.02.2022 sent to the respondents 1 and 2 so as to enable the petitioners to challenge the appointment of 3rd respondent before the competent authority under the H.R. & C.E. Act, within the time frame as may be fixed by this Court.

2.According to the petitioners, Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil at Poonthamallee is governed by Vaikanasa Agama and the said temple is functioning without a Trustee since 1983. Archagar and Paricharakar can be appointed only from the family belonging to Vaikanasa Agama. The 3rd respondent was appointed as Paricharakar on 15.08.2021 to the temple and he does not belong to Vaikanasa Agama family. The petitioners filed Writ Petition No.1016 of 2022 against the respondents 1 and 2 for removal of 3rd respondent, who was appointed as Paricharakar, from the temple and accommodate him in any other temple, which does not follow Vaikanasa Agama. In the said Writ Petition, the 3rd respondent was not made as party respondent. This Court, by the order dated 28.01.2022 held that



without impleading the person appointed as party respondent, no order can be passed for removal of said person. This Court disposed of the said Writ Petition giving liberty to the petitioners to approach the competent authorities for appropriate orders. The petitioners, in order to take steps before the authorities, gave representation dated 14.02.2022 to the respondents 1 and 2 to furnish the following documents:

"(a) Copy of the Application form along with the documents in support of his application submitted by Mr.Nandu to the post of Paricharakar;

(b) Copy of the appointment order issued to Mr.Nandu appointing him as the Paricharakar of the temple;

(c) Credentials of the members of the Interview Panel which interviewed Mr.Nandu along with a copy of the recommendation of each member of the interview panel."

The respondents 1 and 2 did not furnish the documents. The petitioners filed Writ Petition No.10162 of 2022 for a direction to the respondents 1 and 2 to furnish the information and copy of the documents sought for by the petitioners in their representation dated 14.02.2022, to the petitioners to enable them to challenge the appointment of 3rd respondent before the authorities under H.R. & C.E. Act. The petitioners also filed another Writ Petition No.10149 of 2022 for a direction to the respondents 1 and 2 not to make any appointment to Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil, in violation of Vaikanasa Agama and without authority of the Trustees under Section 55 of the H.R. and C.E. Act.

3.The learned counsel appearing for the petitioners extensively referred to various averments mentioned in the affidavits about Vaikanasa Agama and that temple is governed by said Agama. According to the learned counsel for the petitioners, the appointment of 3rd respondent, who does not belong to Vaikanasa Agama family, has affected religious feelings of the devotees of the temple. The 3rd respondent has to be removed from the post of Paricharakar from the temple and he has to be accommodated in some other temple, which is not governed by Vaikanasa Agama and prayed for allowing both the Writ Petitions.

4.Mr.A.K.Sriram, the learned counsel appearing for the 1st respondent and Mrs.M.Geetha Thamaraiselvan, the learned Special Government Pleader appearing for the 2nd respondent separately



WEB GATES

submitted that 3rd respondent is fully qualified to be appointed as Paricharakar and after following the procedure, the 3rd respondent was appointed as Paricharakar. The appointment of 3rd respondent is valid and legal. In the earlier Writ Petition No.1016 of 2022 filed by the petitioners for the relief of removing the Paricharakar appointed, this Court disposed the said Writ Petition by order dated 28.01.2022 giving liberty to the petitioners to approach the authorities challenging the said appointment. The petitioners, without approaching the authorities, are seeking documents, which are irrelevant to decide the validity of appointment of 3rd respondent as Paricharakar. The learned counsel for the 1st respondent submitted that petitioners ought to have filed an application under the RTI Act to get the details now sought for with regard to appointment of 3rd respondent and prayed for dismissal of both the Writ Petitions.

5.Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the 1st respondent and the learned Special Government Pleader appearing for the 2nd respondent and perused the entire materials on record.

6.From the averments made in the affidavits filed in both the Writ Petitions, it is seen that it is the case of the petitioners that Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil at Poonthamallee, is governed by Vaikanasa Agama and Archagar and Paricharakar can be appointed only from the family of Vaikanasa Agama. According to the petitioners, the 3rd respondent does not belong to Vaikanasa Agama family and also does not possess requisite qualification. The petitioners earlier filed Writ Petition No.1016 of 2022 for removal of 3rd respondent as Paricharakar appointed to Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil at Poonthamallee, in violation of Vaikanasa Agama and H.R. & C.E. Act, without making the Paricharakar appointed as party respondent in that Writ Petition. This Court, by the order dated 28.01.2022 declined to grant the relief of removal of 3rd respondent and disposed of the said Writ Petition giving liberty to the petitioners to approach the authorities. When the petitioners make such claim that 3rd respondent does not belong to Vaikanasa Agama family, it is for the petitioners to prove the said contention before the authorities. Instead of approaching the authorities to get their grievance redressed, the petitioners are seeking documents stating that those documents are necessary to approach the authorities. This contention is not acceptable. Further, the petitioners cannot ask for the relief of direction to the respondents 1 and 2 not to make any appointment to Arulmigu Thirukacchi Nambigal and Varadaraja Perumal Thirukoil at Poonthamallee, without authority of trustees, when already 3rd respondent is appointed as Paricharakar on 15.08.2021 itself.



Further when the relief in the earlier Writ Petition No.1016 of 2022 filed by the petitioners for removal of 3rd respondent was not granted to the petitioners, the petitioners did not seek any direction for furnishing the documents now sought for at that time. Having failed in the earlier Writ Petition, he cannot couch the same relief in the different form and approach this Court. In view of the above and already 3rd respondent is appointed, the Writ Petition filed for a direction to the respondents 1 and 2 not to make any appointment to the said temple has become infructuous.

7.For the above reasons, both the Writ Petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kj

To

1. The Executive Officer
Arulmigu Thirukacchi Nambigal and
Varadaraja Perumal Thirukoil
Poonthamallee
Thiruvallur - 600 056
Thiruvallur District.
2. The Commissioner
Hindu Religious and Charitable Endowments
119, Uthamar Gandhi salai
Nungambakkam
Chennai-600 034.

+1cc to Mr.S.Sridharan, Advocate, S.R.No.28258
+1cc to M/s.A.S.Kailasam & Associates, Advocate, S.R.No.28291
+1cc to the Government Pleader, S.R.No.28711
+1cc to M/s.A.S.Kailasam & Associates, Advocate, S.R.No.28293 [20/06/2022]
+1cc to the Government Pleader, S.R.No.28706 [20/06/2022]
+1cc to Mr.S.Sridharan, Advocate, S.R.No.28259 (20/06/2022)

W.P.Nos.10149 and 10162 of 2022

PM(CO)
RLP(19/05/2022)