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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.24783 of 2021

and

W.M.P.Nos.26061, 26065 & 28210 of 2021

S.Vadivel

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Tourism, Culture and Endowments Department,
Fort St. George, Secretariat,
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: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to G.O.Ms.No.134 dated 13.10.2021 issued by Tourism, Culture and Endowment Aa.Ne. (3-1) Department, 1st Respondent herein and quash the same as illegal.

For Petitioner : Ms.G.Sumitra
for Mr.P.Karunamurthy

For RR 1 to 3 : Mr.S.Yashwanth
Additional Government Pleader

For R4 : Mr.S.Sithirai Anandan
Standing Counsel



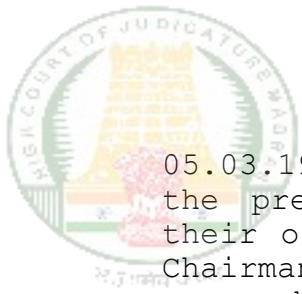
O R D E R

This Writ Petition is filed for issuance of writ of Certiorari to call for the records relating to G.O.Ms.No.134 dated 13.10.2021 issued by Tourism, Culture and Endowment Aa.Ne. (3-1) Department, 1st Respondent herein and quash the same as illegal.

2.The present Writ Petition is filed challenging G.O.Ms.No.134 dated 13.10.2021, issued by Tourism, Culture and Endowment Aa.Ne.(3-1) Department, 1st Respondent herein granting approval for elected Trustees of A/m Angalamman Temple situated at Mel Malayanoor, Gingee Taluk, Villupuram District and directing the 2nd respondent to take action to elect the Chairman to the Board of Trustees among the elected Trustees and that the term of office is two years from the date of election of Chairman to the Board of Trustees.

3.According to the petitioner, the management and administration of the said Temple is formulated in a scheme dated 21.01.1936 in O.S.No.42 of 1933 on the file of the District Court, Cuddalore. As per the scheme so framed, seven Trustees are to be elected one each from seven branches of families. The term of office for Trustees was one year. Subsequently, the 4th respondent by the order dated 05.03.1973, formed a Administering Scheme in O.A.No.1244 of 1968 for smooth functioning of administration of the Temple. As per the administering scheme dated 05.03.1973, the term of Trustees was three years. The 4th respondent by the scheme dated 05.03.1973 made in O.A.No.1244 of 1968, fixed the term of office of the Trustees for three years. Subsequently, the 1st respondent due to dispute between the parties, again issued G.O.Ms.No.167 dated 15.01.2015 confirming the term of office of the Trustees as two years. The present Trustees were elected on 30.12.2019 and their office come to an end on 30.12.2021 and new Trustees have to be elected from January 2022 onwards for a period of two years. The Department did not take any steps to conduct election for new Trustees. Instead of that, by the impugned G.O.Ms.No.134 (Tourism, Culture and Endowment Department) dated 13.10.2021, approved the Trustees elected on 30.12.2019 and directed the 2nd respondent to take steps for the election of Chairman to the Board of Trustees and stated that term of the Trustees will be two years from the date of election of Chairman to the Board of Trustees.

4.The learned counsel appearing for the petitioner contended that term of present Trustees expired on 30.12.2021 and by permitting the present Trustees to elect the Chairman is contrary to the scheme framed under O.A.No.1244 of 1968 dated



05.03.1973 and G.O.Ms.(P)No.188 dated 16.07.2012. By permitting the present Trustees to elect the Chairman and holding that their office will be two years from the date of election of the Chairman of Board of Trustees, affects the right of members of seven branches of families to contest for Trusteeship. The opportunity to the members to get elected as Trustees is denied and prayed to quash G.O.Ms.No.134 dated 13.10.2021.

5.The respondents 1 to 3 filed counter affidavit.

6.Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents 1 to 3 contended that as per G.O.Ms.(P)No.188 dated 16.07.2012, it has been categorically stated that term of the office of Board of Trustees will be three years from the date of election of Chairman to the Board of Trustees. Subsequently, as per G.O.Ms.No.167 dated 15.01.2015, the term of office of Board of Trustees was reduced to two years from the date of election of Chairman to the Board of Trustees. In O.A.No.3 of 2012 filed by one Veerappan Poojari, the scheme was modified by the 3rd respondent stating that major adult male members and female unmarried members of each branch of the family will also be entitled to vote for the selection of the Trustees of the family of each branch in accordance with the scheme. As per the above modified scheme, new voters list was prepared and election was conducted on 30.12.2019 by the Assistant Commissioner, HR & CE Department, Villupuram / Election Officer and list of elected persons were forwarded to the Government for approval by the 2nd respondent. Approval was granted by the 1st respondent by the impugned G.O.Ms.No.134 dated 13.10.2021 and the same was forwarded to the Government. Due to COVID-19 pandemic situation, the verification of antecedents, qualification and disqualification as specified under Section 25-A and 26 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 of the elected Trustees were enquired by the authorities and report was sent to the 1st respondent. Due to COVID-19 pandemic situation, the verification of these particulars took considerable time and 1st respondent by the impugned G.O.Ms.No.134, granted approval on 13.10.2021 and directed the 2nd respondent to take steps for election of Chairman to the Board of Trustees. The term of the office of the Board of Trustees will be two years from the date of election of Chairman of Board of Trustees. The 3rd respondent was appointed as Administrator of the Temple in the year 2018 and Board of Trustees was not constituted. The 3rd respondent is administering the Temple. The elected Board of Trustees did not assume charge of the Temple. In view of the same, the impugned G.O.Ms.No.134 dated 13.10.2021 is valid and is not liable to be quashed and prayed for dismissal of Writ Petition.



7. Heard the learned counsel appearing for the petitioner, who appeared through video conferencing as well as learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent and perused the entire materials on record.

8. From the materials on record, it is seen that the management of A/m Angalamman Temple situated at Mel Malayanoor, Gingee Taluk, Villupuram District is by seven Trustees, one each elected from seven branches of the families. The term of office is two years. The election of Trustees was held on 30.12.2019 and seven Trustees were elected. It is the case of the respondents that list of elected Trustees with details were forwarded to the 1st respondent and 1st respondent approved the election of the Trustees only by the impugned G.O.Ms.No.134 dated 13.10.2021. From March 2018, the 3rd respondent is administering the Temple and elected Trustees did not assume office of administration of the Temple. This contention of the respondents is not disputed by the petitioner. It is not the case of the petitioner that after election of Board of Trustees on 30.12.2019, the elected Board of Trustees assumed office and they are administering the Temple. No Chairman was elected from among the elected Trustees till date. As per Section 48 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the Chairman to the Board of Trustees has to be elected within the time limit prescribed. If no Chairman is elected within the prescribed time limit, the 1st respondent has power to appoint the Chairman.

9. From the above facts, it is clear that only when the 1st respondent approved the election of the Trustees and Chairman to the Board of Trustees, the tenure of the Trustees will stop running. In the present case, due to COVID-19 pandemic situation and verification of antecedents, qualification and disqualification of elected Trustees, their election was approved only on 13.10.2021 by the impugned G.O.Ms.No.134 dated 13.10.2021. When the election of the Trustees was approved only on 13.10.2021, they are yet to assume office and to elect the Chairman. The contention of the petitioner that Chairman of the elected Trustees expired on 29.12.2021 is without merits. There is no reason to interfere with the impugned G.O.Ms.No.134 dated 13.10.2021.

10. For the above reasons, the Writ Petition is liable to be dismissed as devoid of merits and hence, the same is dismissed. In view of dismissal of W.P.No.24783 of 2021, no further order is necessary in W.M.P.No.28210 of 2021, which was filed to permit the petitioner to get impleaded the proposed petitioners / respondents 5 to 11 in W.P.No.24783 of 2021.



Consequently, the connected Miscellaneous Petitions are closed.
No costs.

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Sd/-
Deputy Registrar (CS)

//True copy//

Sub Assistant Registrar

krk

To

1.The Principal Secretary to Government,
Tourism, Culture and Endowments Department,
Fort St. George, Secretariat,
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.

+2ccs to Mr.P.Karunamurthy, Advocate SR.No.9804

+1cc to Ms.G.Sumitra, Advocate SR.No.9988

+1cc to Mr.S.Sithirai Anandan, Advocate SR.No.9970

+1cc to Mr.M.Selvam Advocate SR.No.99961

+1cc to Government Pleader SR.No.10514

W.P.No.24783 of 2021

MG (CO)
GMY (22/02/2022)