



WP.No.33972 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.33972 of 2022 &

WMP.Nos.33452, 33453 & 33454 of 2022

M.Kumaresan

... Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
 2. The Assistant Commissioner / The Election Officer,
Hindu Religious and Charitable Endowments Department,
Tirupur.
 3. The Assistant Commissioner / The Election Officer /
Executive Officer, Arulmigu Vinayagar Thiru Koil,
Eechanari.
 4. The Assistant Commissioner,
Thiru Aalangadu Immudi Aagora Tharma Shiva Chariyar
Aaiyera Vayser Madam, Nerrinji Pettai, Aandhiyur Circle,
Erode District.
- ... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India,
to issue a Writ of Certiorarified Mandamus to call for the records of the



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second and third respondents in relating to the rejection of the petitioner's nomination dated 07.12.2022 and quash the same as arbitrary, illegal and wholly without jurisdiction and consequently direct the second and third respondents to accept the petitioner's nomination application and permit the petitioner to participate in the election to be held on 25.12.2022.

For Petitioner : Mr.R.Venkatesh

For Respondents : Mr.N.R.R.Arun Natarajan
Spl. Government Pleader [HR & CE]
– R1 to R4

Mr.R.Parthasarathy
for unopposed nominees for
Ramnad and Chengelpet District

ORDER

This Writ Petition has been filed to quash the impugned Order rejecting the petitioner's nomination dated 07.12.2022 as arbitrary, illegal and wholly without jurisdiction and consequently direct the second and third respondents to accept the petitioner's nomination application and permit the petitioner to participate in the election to be held on 25.12.2022.

2. The main contention of the petitioner is that only if a person is convicted for any offence, such person can be disqualified and his



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nomination can be rejected. The reasons assigned for rejection of the petitioner's nomination is that he has collected money illegally from the members of the Mutt and the same cannot be a ground to reject his nomination. It is his further contention that no opportunity whatsoever has been given to the petitioner before passing the impugned Order. Hence, the present Writ Petition has been filed for the aforesaid relief.

3. Heard Mr.R.Venkatesh, learned counsel appearing for the petitioner, Mr.N.R.R.Arun Natarajan, Special Government Pleader for Hindu Religious and Charitable Endowments Department, for R1 to R4.

4. I have perused entire materials available on record. The nomination of the petitioner has been rejected mainly on the ground that he has collected money from the devotees without permission from the authorities as per the Tamilnadu Hindu Religious and Charitable Endowments Act. That apart, he has also collected amounts under the pretext of running a Kosala. It is relevant to note that trustees to be appointed as per the scheme and election is governed by the scheme framed by the Sub Court, Erode.



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Scheme 5 reads as follows :

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5. No one shall be elected to the Committee of Trustees
:

a] Who is below 25 years of age and above 70 years of age

b] Who is not member of the Ayira Vysia Community

c] Who does not owe allegiance to the Mutt aforesaid

d] Who has been convicted of any offence involving moral turpitude or against whom an Order under section 109 of the Code of the Criminal Procedure has been passed.

e] Who is an uncertified bankrupt of undischarged insolvent

f] Who is suffering from unsoundness of mind, blindness, leprosy, paralysis or on infirmity or of such a nature as to render him unfit for work.

g] Who is a member of the joint family of which some other member is a trustee of the aforesaid Mutt at the same time.

5. Under sections 47 and 49 of the Tamil Nadu High Religious and Charitable Endowments Act notwithstanding the scheme, if any settled or deemed under this Act to have settled, the authority have power to appoint trustees or fit person.



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6. When a person, even before the appointment, is found acting against the institution and making monetary gain using the institution contrary to the provisions of law, such a person cannot, as a matter of right, seek for appointment of a trustee and contest election. Though Scheme 5 show that only if a person is convicted for any offence involving moral turpitude or against whom an Order under section 109 of the Code of the Criminal Procedure has been passed, is not eligible for contest. The fact remains that sub clause c of scheme 5 also bears any person who does not owe allegiance to the Mutt aforesaid. When the very object of the Mutt is to follow spiritual and religious activities by a particular sect, without following spiritual and religious activities, one cannot usurp the properties for making monetary benefits contrary to the provisions of the Tamilnadu Hindu Religious and Charitable Endowments Act. In such view of the matter, when the authorities have clearly found that the petitioner has collected amounts from the public in the name of running the Gosala and also during Pradhosham, such person, as a matter of right, cannot seek nomination as a trustee.

7. Accordingly, this Writ Petition is dismissed. If at all the petitioner



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has to pursue his remedy, he has to file a representation before the Commissioner or to establish his right in the Civil Court in the manner known to law. Consequently, connected miscellaneous petitions are closed. No costs.

19.12.2022

vrc

To

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