



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2022

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) No.6584 of 2018

and

W.M.P. (MD) Nos.6380 & 6381 of 2018

Suba.Nachiappan

.. Petitioner

Versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Sivagangai.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Paramakudi.
- 4.The Inspector,
Hindu Religious and Charitable
Endowments Department,
Thiruppatur - 1.
- 5.The Fit Person / Executive Officer,
Arulmigu Athalanayagi Amman Temple,
Thalakkavur Post,
(Also the Executive Officer of
Arulmighu Koppudayanayagi Amman Thirukoil),
Karaikudi,
Sivagangai District.
- 6.AL.Raman Ambalam
- 7.N.Alagappan Ambalam
- 8.Suba.Venkatachalam
- 9.L.Nehru
- 10.S.Vellavarnam

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in R.P.No.5/2017, dated 01.03.2018, passed by the second respondent and quash the same.



For Petitioner : Mr.P.Athimoolapandian
For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader
For R5 : Mr.VR.Shanmuganathan

ORDER

I have heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel for the fifth respondent.

2.After hearing the arguments of the learned counsel appearing for the petitioner and the respondents, this Writ Petition is disposed.

3.The facts on record indicate that there is a scheme decree passed in O.A.No.35 of 1982 on 29.07.1985 by the Deputy Commissioner, H.R. & C.E. Administration Department, Madurai. The said scheme was later amended on 30.09.1985. As per the scheme, the Temple employee namely, the Fit Person/Executive Officer, Arulmigu Athalanayagi Amman Temple, Thalakkavur Post, Karaikudi, Sivagangai District, has to be administered by five members appointed by the Assistant Commissioner, four from Vallambar community and one from Kanakku Pillai family, residing at Thalakkavur Village. The scheme decree contemplates appointment of members from the above said community and the family for the affairs of the above said Temple. It is noted that there are *inter se* disputes among the members of Vallambar community. Earlier, an attempt was made by approaching this Court by one RM.Archunan in W.P.(MD)No.2157 of 2015 and the order of the third respondent was sought to be quashed. The Writ Petition was disposed of on 30.09.2015. Aggrieved by the above said order, the petitioner therein filed W.A.(MD)No.1376 of 2015. A Division Bench of this Court, vide judgment dated 20.04.2017, disposed of the writ appeal. The operative portion of the said judgment reads as follows:-

'10. Thus, in the light of the above, the appellant and the respondents 6 to 9 and the tenth respondent are directed to submit necessary proposals to the third respondent in the proper format, for which the format shall be furnished by the third respondent, within a short time and on receipt of the proposals the third respondent shall issue notice to all the parties, hear them in person and pass a reasoned order, in terms of the scheme decree, without being influenced by any observation made in the earlier order, dated 09.02.2015, within a period of four weeks from the date of receipt of a copy of this order.'

4.Pursuant to the above said judgment of the Division Bench of this Court, the third respondent passed an order on 24.08.2017. The third respondent, however, declined to appoint a fit person under Section 49(1)(E) of the H.R. & C.E. Act, considering the fact that



there were *inter se* disputes between the members of Vallambar community.

5. Pursuant to the above said order, section of members belonging to Vallambar community filed petition under Section 21-A of the HR & CE Act. In the cause title, the petitioner therein has stated that there were no other respondents. Pursuant to the above said application filed under Section 21-A of the HR & CE Act, the second respondent has passed the impugned order dated 01.03.2018. By the impugned order, the second respondent has concluded that the members of Vallambar community can proceed to appoint the Trustees as and when the members of Kankku Pillai family appoint their nominee. From a reading of the order, it is evident that the said order has been passed under Section 21-A of the HR & CE Act pursuant to the application filed by section of members of the Vallambar community, of which, the petitioner also is a Member. Obviously, notice ought to have been issued to all concerned as evident from the reading of the order passed by the Division Bench of this Court in W.A.(MD)No.1376 of 2015, vide judgment dated 20.04.2017. However, the petitioner who was a party before the third respondent was not a party in the proceeding before the second respondent. Strangely, no notice was issued to the stakeholders from the said community.

6. Under these circumstances, the impugned order passed by the second respondent is set aside and the matter is remitted back to the second respondent to pass a speaking order within a period of four weeks from the date of receipt of a copy of this order. Needless to state that the petitioner and other persons who were parties to the proceedings before the third respondent - Assistant Commissioner, HR & CE Department, Paramakudi, which was subject matter of the revision under Section 21-A of the HR & CE Act shall be also heard.

7. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

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/ /2022

Sub Assistant Registrar(CS)

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To

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Karaikudi,
Sivagangai District.

+1 CC to M/s.P.ATHIMOOLAPANDIAN, Advocate (SR-5261[F]
dated 10/02/2022)

+1 CC to M/s.SPL GP (SR-5046[F] dated 09/02/2022)

WP (MD) No.6584 of 2018
08.02.2022

VR(CO)

GC(25.02.2022) 4P 8C