



WP (MD) Nos.2435 of 2015 and 12586 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) Nos.2435 of 2015 and 12586 of 2018
and
M.P.(MD)Nos.2 and 3 of 2015 and
W.M.P.(MD)Nos.11469 and 11470 of 2018

W.P.(MD)No.2435 of 2015:-

Saravanan, S/o.Venkatachalavellalar

.. Petitioner

Versus

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Trichirappalli,
Trichirappalli District.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Pudukottai,
Pudukottai District.

4.The Executive Officer,
Pudukottai Devasthanam,
Pudukottai.

5.S.Narayanasamy

<https://www.mhc.tn.gov.in/judis>



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[R5 is impleaded vide order dated 28.04.2015,
made in M.P.(MD)No.4 of 2015]

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6.Chellappan, S/o.Govindan
[R6 is impleaded vide order dated 08.03.2018,
made in W.M.P.(MD)No.11042 of 2017]

7.Arivalagan

8.Ramaraj

.. Respondents

[R7 and R8 are impleaded vide order dated 25.03.2019,
made in W.M.P.(MD)Nos.11040 & 11041 of 2017]

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the first respondent i.e., Ni.Mu. 24441/2014/E5, dated 18.06.2014, by notifying the Selli Amman @ Mariamman Temple, situated in Survey No.72 of Sundampatti Village, Gandarvankottai Taluk, Pudukkottai District, without following the procedure laid down in the Hindu Religious and Charitable Endowments Act, 1959, quash the same and consequently, forbear the respondents from in any manner interfering with the day-to-day affairs of the above said Temple carried out by the petitioner and their fellowmen.

For Petitioner : Mr.D.Parisuthanathan

For R1 to R3 : Mr.P.T.Thiraviam
Government Advocate

For R4 : Mr.G.Madhavan

For R5 : Mr.C.Guhaseelarupan

For R6, R7 & R8 : No Appearance



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W.P.(MD)No.12586 of 2018:-

Dr.V.Murugesan

.. Petitioner

Versus

- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai-34.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Trichy.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Pudukottai,
Pudukottai District.
- 4.The Executive Officer,
Pudukottai Devasthanam,
Pudukottai.
- 5.Saravanan, S/o.Venkatachala Vellalar
- 6.S.Narayanasamy
- 7.Chellappan, S/o.Govindan

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the order passed by the first respondent in Ni.Mu.24441/2014/E5, dated 18.06.2014, quash the same as illegal, arbitrary and unenforceable and consequently, quash all other consequential orders.



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For Petitioner	:	Mr.V.K.Vijayaragavan
For R1 to R3	:	Mr.P.T.Thiraviam Government Advocate
For R4	:	Mr.G.Madhavan
For R5	:	Mr.D.Parisuthanathan
For R6	:	Mr.C.Guhaseelarupan
For R7	:	No Appearance

COMMON ORDER

Since the issue involved in both the Writ Petitions is one and the same, they are heard together and disposed of by this common order.

2.The prayer sought by the petitioners in both the writ petitions is to quash the order passed by the first respondent/Commissioner, in Ni.Mu.No. 24441/2014/E5, dated 18.06.2014, in taking over the Arulmigu Selliamman Temple under the control of the H.R. & C.E. Department and further directing the third respondent/Assistant Commissioner to take steps for appointing a Thakkar and Trustee and also to monitor the accounts of the Temple and to give a report.

3.The contention of the petitioner in W.P.(MD)No.2435 of 2015 viz., Saravanan is that, he is the permanent resident of Sundampatti Village, Gendravakottai Taluk, Pudukkottai District. He belongs to Vellalar



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community. There are nearly 350 families in the said Community in the petitioner's Village, in which, there is a Temple named "Selli Amman @ Mariamman Temple" and its premises situated in S.No.72 of Sundampatti Village, which was consecrated by the petitioner's ancestors. The petitioner's entire community had managed and administered the day-to-day affairs of the Temple through the Committee elected among themselves and also to perform the yearly functions like, Chithirai and Pongal festival. Each and every family will contribute Thalaivari to administer the Temple and other expenditure to be incurred during Chithirai festival. No contribution or donation will be received from other community people or any other donors. The other community people will only be permitted to worship in the Temple, but they are not permitted to conduct any pooja.

4.The official from the third respondent's office visited the Temple during the month of February, 2014 and enquired orally about the administration of the Temple and also took photographs of the Temple. When he was questioned, he never disclosed the purpose of his visit. Hence, the petitioner through his Advocate filed an application under the Right to Information Act on 20.02.2014 before the third respondent. The third respondent sent a reply stating that steps are being taken to bring the Temple under the control of the H.R. & C.E. Department. Having received the reply,



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the petitioner's community people raised their objection in writing on 25.03.2014 and forwarded the same to the respondents 1 to 3 through a registered post. Thereafter, no action has been taken. While so, the officers from the third respondent's office visited the Temple in the first week of August, 2014 and enquired the committee members and directed to produce the accounts book to them and hand over the Hundial key. Hence, the petitioner filed W.P.(MD)No.13702 of 2014 before this Court. This Court, by order dated 20.08.2014, disposed of the said Writ Petition, by directing the first respondent to communicate the order, if any passed appointing a fit person, to the petitioner and also gave liberty to the petitioner and other Villagers to challenge the same in accordance with law. However, the respondents 1 to 3 never communicated a copy of the impugned order passed by the first respondent. The petitioner got a copy of the order through his Advocate by filing an application under the Right to Information Act. Pursuant to the report of the third respondent, the first respondent has passed the above said order. Based on the said order, the third respondent, appointed the fourth respondent as Executive Officer of Selli Amman @ Mariamman Temple, against the objections of the petitioner, dated 25.03.2014.

5.The learned counsel for the petitioner further submits that Section 71 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959



[hereinafter referred to as "the H.R. & C.E. Act"] has not been followed in this case. Further, there is no complaint of mismanagement of the Temple. As per Section 72(2) of the H.R. & C.E. Act, if any objections received within the specified time, the first respondent shall hold an enquiry and decide the matter subject to the provisions of the H.R. & C.E. Act. In such circumstances, the first respondent cannot initiate any proceedings for bringing the Temple under the control of the H.R. & C.E. Department. Even if there is any mismanagement, proper notice to be issued to all the persons, having interest over the Temple and hold an enquiry and if any objection is raised by a concerned person, submit a report to the Government and the Government is empowered to take a decision for notification. In this case, the first respondent had failed to hold any enquiry despite specific objections by the petitioner. No notice under Section 70(2) of the H.R. & C.E. Act issued and published in the manner stated in the Rules and the Statute. In view of the same, the impugned order of the first respondent, directing the third respondent to appoint a fit person is not valid in the eyes of law. The Villagers peacefully administered the Temple by managing the day-to-day affairs of the Temple by collecting contribution only among the petitioner's fellowmen, which render the colour of denominational Temple. There is a constitutional right guaranteed under Article 26 of the Constitution of India to maintain and manage the religious affairs by group of people, forming religious denomination.



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6. Further, in support of his contentions, the petitioner has produced a copy of the objections not only sent by him, but also by the entire Villagers, dated 25.03.2014, and the same has also been received by the respondents 1 to 3. The communication of the second respondent, dated 03.04.2014, confirms that the complaint of the petitioner has been forwarded to the third respondent, for enquiry. Thereafter, no enquiry was conducted. The third respondent sent a report to the first respondent on 02.06.2014 stating that the Temple is situated in the Village Natham Poromboke land, measuring an extent of 1.72.5 Hectares and one Narayanasamy, the fifth respondent herein had been administering the Temple. Further, there are no other landed properties to the Temple. In the Temple, there is a bronze procession deity (Urchavar) of 3 ½ feet height and as per the statement of the Trustee, 84 grams of gold jewels was under the custody of Chellappa Vellalar and there are three stone statues in the Temple, viz., one Mariamman @ Selliamman statue and two Vinayagar statues. Further, Rs.10,000/- was collected as income from the temple festival. Therefore, the Temple has to be brought under the control of the H.R. & C.E. Department. Thus, in a hurried manner, without considering the objections and without following the rules, the Temple has been brought under the control of the H.R. & C.E. Department and the fourth respondent/Executive Officer was appointed. Hence, the petitioner has filed the present Writ Petition.



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7. In support of his submissions, the learned counsel for the petitioner relied on the following decisions, stressing the point that principles of natural justice has to be followed and notice to be issued to the Trustee or person concerned before appointment of the Executive Officer. Further, there should be some records that the Temple is not properly administered and that there is mal-administration, to bring the temple under the control of the HR & CE Department.

(i) N.Sivasubramanian vs. The Government of Tamil Nadu, Rep. by its Secretary, H.R. & C.E. Department, Chennai and others [2006 (2) CTC 49]

(ii) P.R.Thirupathy and others vs. The Commissioner, H.R. & C.E. Department and others [2015 (4) CTC 755]

(iii) Sri Devi Ellamman Paripalana Sangam, Rep. by its Secretary C.Chockalingam vs. The Assistant Commissioner, H.R. & C.E., Chennai and others [2010 (2) CWC 915]

8. The first respondent filed counter affidavit and denied the averments made in paragraphs 6 to 9 of the affidavit filed by the petitioner. The first respondent submits that Section 71 of the H.R. & C.E. Act is applicable only for the Institution governed by a scheme settled or deemed to have been settled under the Act, but, in this case, no scheme has been framed for the Temple



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under Section 64(1) of the H.R. & C.E. Act. Further, the petitioner has made contradictory statement in paragraph 10 of the affidavit. There is a Hundial and the Temple possesses all the characteristics of a public Temple. There are sufficient grounds available to take over the Temple under the effective control of the H.R. & C.E. Department. The first respondent after considering all the relevant documents has passed the impugned order.

9.The fourth respondent filed counter affidavit reiterating the averments made in the counter filed by the first respondent. The learned counsel for the fourth respondent submitted that in this case, the fourth respondent/Executive Officer was appointed on 29.07.2014 and the same was communicated to him on 30.07.2014 and the fourth respondent took charge on 27.08.2014. Thereafter, the Writ Petition challenging the appointment of the fourth respondent was filed on 20.02.2015 *i.e.*, nearly after a lapse of seven months and notice of motion was ordered on 25.02.2015 and thereafter, on 28.04.2015, an order of status quo was granted, by that time, the fourth respondent was administering the Temple as Executive Officer.

10.The fifth respondent filed counter affidavit stating that based on the report of the third respondent, the first respondent has brought the Temple under the control of the H.R. & C.E. Department. Subsequently, the third



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respondent appointed the fourth respondent as Fit Person for the said Temple under Section 49(i) of the H.R. & C.E. Act. Further, the fifth respondent undertakes to hand over the charge of the Temple to the fourth respondent, who was appointed as a Fit Person by the competent authority under the Act, for better administration of the Temple.

11.The contention of the petitioner in W.P.(MD)No.12586 of 2018 is that, the Temple is a small Temple. The petitioner is having house and lands in the Village. His relations are in occupation of Village. He used to visit the Village regularly and came to know that the H.R. & C.E. Department had taken proceedings against the Temple administration. The petitioner is interested in the institution and hence, filed this Writ Petition.

12.The petitioner further submits that the Temple is an ancient Temple and its origin has been lost in antiquity. However, the Temple has been continuously and customarily managed and administered by his ancestors viz., Govinda Vellalar, Muthaiah Vellalar and Veerappa Vellalar. The Temple was founded by them centuries ago and it has been managed by the community persons in succession without break from time immemorial. The Temple is in the nature of denominational Temple. The inhabitants in the Village would be around 1500 persons and there are eight Karais and 12 Mandagapadis attached



to the Temple. Mandagapadis 1 and 2 are performed by the Scheduled Caste community people. The Mandagapadis are performed in the following manner:-

"(i) 2nd Mandagapadi is performed by persons belonging to Pallar and Carpenter community.

(ii) 3rd Mandagapadi is performed by Arasuvagaiyara (Clan of Vellalar Community)

(iii) 4th and 10th Mandagapadis are performed by Ambalakarars popularly called as Nattamai, who are in management of the Temple (Clan of Vellalar Community)

(iv) 5th Mandagapadi is performed by Appukutti and Kattappu (Clan of Vellalar Community)

(v) 6th Mandagapadi is performed by Vadukku Veedu (Clan of Vellalar Community)

(vi) 7th Mandagapadi is performed by Muthu Velan Veedu and Malayappa Velan Vedu (Clan of Vellalar Community)

(vii) 8th Mandagapadi is performed by Kalia Veedu and Kanakka Veedu

(viii) 9th Mandagapadi is performed by Yadavas

(ix) 11th Mandagapadi is performed by Vanniampatti

(x) 12th Mandagapadi is performed by Therkupatti."

13.The petitioner further submits that the Temple festivals are performed during the Tamil month of Aadi and in the Tamil months of



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Chithirai and Vaikasi, there is a festival for 14 days. The elected Nattamaais of the Vellalar community persons are in management of the Temple. The Temple administration has been vested with Vellalar community persons. The Temple is a public Temple and the public as a matter of right, can come and worship in the Temple. Normally, contributions are made by persons performing Mandagapadi to Nattamaais and acknowledging their rights, the Mandagapadis are performed by Vellalars. Daily Poojas are not done in the Temple and no Poojari was appointed. The Temple is not owning or possessing any immovable property and it was founded in a Government Poromboke land.

14.This being the case, the H.R. & C.E. Department stepped into the Temple administration, took over the Temple under their control and appointed a Fit Person by force, which is not proper. The ancestors of the petitioner had managed and administered the day-to-day affairs of the Temple and also performed the Temple festival. The Idol of the Temple was given to the family of Sellappa Vellalar. After the Temple festival is over, the Idol is taken back. At present, one Gunavathi, W/o.Narayanasamy is in custody of the Idol. The jewellery of the Idol is given custody to another Chellappa Vellalar, S/o.Govinda Vellalar. As and when the Temple festival takes place, the idol and jewellery are brought to the Temple and after the festival is over,



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they are taken back by them and the said system is in vogue from time immemorial. To thwart the Temple festival, Saravanan, the fifth respondent/petitioner in W.P.(MD)No.2435 of 2015 filed O.S.No.16 of 2018 before the Vacation Court, Pudukkottai and the same is still pending.

15.The first respondent adopted the averments made by him in the counter affidavit filed in W.P.(MD)No.2435 of 2015.

16.The learned counsel for the petitioner in W.P.(MD)No.12586 of 2018 fairly admits that the Temple is in the nature of denominational Temple and administered by a specific group of people and they failed to apply for any scheme for administration of the Temple or take steps to declare the Temple as denominational Temple and also for hereditary rights.

17.The learned counsel for the petitioner submits that notice to the hereditary trustees or the person, who is in administration of the Temple is *sine qua non* before taking over the administration of the Temple under the control of HR & CE Department. The principles of natural justice have to be followed. In this case, the same have been clearly violated. Further, there is no complaint by any other group of people regarding mal-administration or mismanagement or in the conduct of Poojas and Temple festivals. The right of



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the Trustee is a valuable right and should not be divested lightly except in cases where it is warranted for better and proper administration or to prevent mal-administration.

18. In support of his contentions, the learned counsel for the petitioner relied on the following decisions:-

(i) **Commissioner, Hindu Religious and Charitable Endowments (Administration) Dept., Madras vs. K.Jothiramalingam and another [AIR 1985 Madras 341]**

(ii) **D.R.Nagarajan vs. The Commissioner, Hindu Religious and Charitable Endowments (Admn.) Dept., Madras [AIR 1971 Madras 295]**

(iii) **The Commissioner, H.R. & C.E. Admn. Department and others vs. Sri Visalakshi Sametha Sri Viswanathaswamykoil, Veerapandi, Gobichettipalayam, Rep. by its Managing Fit Person, L.Rajamani [2008 (2) LW 939]**

(iv) **K.Ekambaram and another vs. The Commissioner, H.R. & C.E., Administration Department and others [1995 (2) LW 213]**

(v) **Dr.Subramanian Swamy and another vs. State of Tamil Nadu and others [2014 (1) CTC 763]**

(vi) **N.Sivasubramanian vs. The Government of Tamil Nadu, Rep. by its Secretary, H.R. & C.E. Department and others [2006 (2) CTC 49]**



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19. Considering the aforesaid rival submissions and on perusal of the materials on record, this Court finds that the first writ petition viz., W.P(MD)No.2435 of 2015 was filed after appointment and taking over the charge of the Temple by the fourth respondent/Executive Officer belatedly after a period of seven months and another writ petition was filed in the year 2018. Thus, the petitioners have no right. They can very well challenge the order of the Commissioner, by filing an appeal before the Secretary to Government under the H.R. & C.E. Act. Now, the fourth respondent/Executive Officer had taken the charge of the Temple and the petitioners have fairly submitted that the said Temple is situated in the Government Poromboke land. The only grievance of the petitioners is that they have a right in the administration and conduct of Poojas, for which, appropriate application to be filed before the competent forum.

20. With the above observations, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.07.2022

Index : Yes/No
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To

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- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
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Trichirappalli,
Trichirappalli District.
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Common order in
WP (MD) Nos.2435 of 2015 and 12586 of 2018

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