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W.P.No.2885 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.2885 of 2023
and WMP.No.3002 of 2023

M.A.Varadarajan

... Petitioner

Versus

1. The Commissioner
H.R. and C.E. Department,
Nungambakkam,
Chennai 600 034.

2. The Joint Commissioner
Madras Division II,
H.R. and C.E. Department,
130, R.K.Mutt Road,
Mylapore, Chennai- 600 004.

3. The Deputy Commissioner
H.R. and C.E. Department,
127, Yadaval Street,
Padi, Chennai- 600 050.

4. A/m.Sri Parthasarathy Swamy Temple,
Rep by the Executive Officer,
Chennai- 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of declaration Declaring that the notification dated 2 / 1/ 2023 issued by the second respondent calling for applications for the Posts



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of non hereditary trustees for the fourth respondent temple is against the scheme framed by the Deputy Commissioner H.R. and C.E. Department, (the third respondent herein) in O.A. No. 129 of 1974 dated 30/ 4/ 1975 and consequently direct the second respondent to issue a fresh notification strictly as per the scheme.

For Petitioner : Mrs.Hema Sampath, Senior Counsel
For M/s.R.Meenal

For Respondents : Mr.R.Shanmugasundaram, AG
Assisted by
Mr.N.R.R.Arun Natarajan, SGP RR1 to 4

ORDER

The main challenge is made to the notification issued by the respondent for appointment of trustees on the ground that the advertisement is not in tune with the scheme mentioned in O.A.No.129/2017.

2. It is the case of the petitioner that Sri Parthasarathy Temple situated in Triplicane is a very famous temple, with a history of more than 1500 years. The said temple is purely a temple of Thengalai tradition and the temple has been managed only by persons belonging to the Thengalai community. As per the scheme framed by this Court dated 18.12.1925, in C.S.No.527 of 1924, there should three trustees and all of them should be Thengalais. Even the modified



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scheme in O.A.No.55 of 1961 mentions that three trustees should be of Thengalai persuasion of one from Brahmin, one from Arya Vysya Community and the other from Non-Brahmin Community. While so, the Joint Commissioner has issued an advertisement on 02.01.2023 in local dailies calling for applications for the appointment of five non hereditary trustees for the Sri Parthasarathy Swamy Temple. The notice has called for the following:

i) Two from Thengalai Srivaishnavite persuasion of Hindu Community.

There is specific mention that the three trustees should be appointed in the following namely

ii) one from Brahmin Community

iii) one from Arya Vysys (Komutti) and

iv) one from Non Brahmin Community.

The petitioner has made a representation on 18.01.2023, to the respondents, for withdrawing the said notification, and issue a fresh one, as per the scheme. However, the respondents have not taken any steps. Hence, the present petition.

3. The learned Senior Counsel appearing for the petitioner submitted that the impugned notification of the second respondent is contrary to the scheme settled in O.A.No.129 of 74. As per the modified scheme clause-iv, the



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Commissioner or other appropriate authorities have power to appoint five trustees under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Two trustees should be selected from Thengalai Srivaishnavite persuasion and one from Brahmin Community, one from Arya Vysys (Komutti) and one from Non Brahmin Community. The last day for receipt of applications for the trustees was 19.01.2023. If the respondents select non Thengalai applicants, it would be against the scheme.

4. The learned Advocate General appearing on behalf of the respondents submitted that the notification has been issued for appointment of three persons as per the scheme and so far, 26 applications have been received from the persons of the Thengalai Srivaishnavite persuasion Hindu Community and the respondents will select the trustees as per the scheme.

5. The submission of the learned Advocate General is recorded. This Court is of the view that since the respondents have admitted that they will select the trustees only as per the scheme. Merely there is some lack of clarity in the notification, the same cannot be challenged.



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6. The Writ Petition is disposed of recording the submission made by the learned Advocate General of Tamil Nadu. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No

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