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Writ Petition No.6457 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 1/3/2023

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.6457 of 2023
a n d
W.M.P.Nos.6487 and 6488 of 2023

R. Balachandar ... Petitioner

Vs

1. The Secretary to Government
Department of Tamil Development Culture
Tourism and Religious Endowments
Fort St. George
Chennai 600 009.
2. The Commissioner
Hindu Religious and Charitable Endowments
Admn. Department
Nungambakkam High Road
Chennai 600 034.
3. The Joint Commissioner – I
Hindu Religious and Charitable Endowments
Administration Department
No.127, I Floor, Yadhawal Street
Padi
Chennai 600 050.
4. The Executive Officer
Arulmigu Thiruvalléeswar (Thiruvallidayam) Temple
Padi
Chennai 600 050.



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5. P.S.Shanmugasundaram

6. M.Muthukumar

7. R. Vijay

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the first respondent, dated 13/2/2023 made in G.O.(Pa) No.28, thereby appointing 6th and 7th respondents as Non-Hereditary Trustees of Arulmighu Thiruvalllesswarar Temple, Padi Village, Chennai and quash the same.

For Petitioner

...

Mr.T.S.Vijaya Raghavan

For respondents

...

Mr.N.R.R.Arun Natarajan
Special Government Pleader
(HR & CE)
for R.R.1 to 4.

ORDER

This writ petition has been filed to quash the order, dated 13/2/2023, passed by the first respondent, in G.O.(Pa) No.28, thereby appointing 6th and 7th respondents as Non-Hereditary Trustees of Arulmighu Thiruvalllesswarar Temple, Padi Village, Chennai.

2. The case of the writ petitioner is that Arulmighu Thiruvalléeswar Temple is situated at Padi Village, is governed by a scheme decree dated



6/9/1959 framed in O.P.Nos.28 and 30 of 1949 and I.A.Nos.110, 119, 131, 136 and 157 of 1949 by the District Court, Chengelpet. According to the Scheme, the Temple is to be administered by a Hereditary Trustee together with two non-hereditary trustees. Among the non-hereditary trustees, one is to be a “Smartha Brahmin” living within the jurisdiction of Madras and Chengelpet District. The other non-hereditary trustee can be a non-brahmin to be from Padi Village itself. The said scheme decree has become final and has been followed from time to time.

3. In the year 2006, there was an infraction which was challenged before this Court and stay of the operation of the order appointing non-hereditary trustee in violation of the scheme was granted. Now, by way of impugned order, first respondent has appointed the sixth respondent, a non-resident of Padi Village which is in violation of the Scheme decree. Besides the seventh respondent presumed to be a Smartha Brahmin has also been appointed. However, he is disqualified under Section 26 A of the Tamil Nadu HR & CE Act, 1959, besides being a person having allegiance to the ruling party. Hence the instant writ petition.

4. Heard Mr.T.S.Vijaya Raghavan, learned counsel for the petitioner.



5. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for the respondents 1 and 4.

6. By consent, the writ petition is taken up for final disposal.

7. The learned counsel appearing for the petitioner submitted that sixth respondent appointed as a “Non-Brahmin” trustee is not a permanent resident of Padi village and hence, he is not fit to be appointed as non-hereditary trustee to the temple. He further submitted that since seventh respondent is a practising Advocate, he cannot devote time to the affairs of the Temple. Moreover, the Trustees should play a smooth functioning of the affairs of the Temple and appointment of Trustees should strictly adhere to any Scheme framed and such erratic appointments will lead to administrative lapses.

8. The learned Special Government Pleader (HR & CE) appearing for the respondents 1 to 4 submitted that only as per the Scheme, Trustees were appointed. According to him, though the sixth respondent resides in Anna Nagar, same comes under the jurisdiction of Padi Village. To substantiate his case, he has produced Residential Certificate.



9. As far as the case of the seventh respondent is concerned, there is no bar, under Section 25 A of the HR & CE Act. Therefore, merely because he is a legal practitioner, he cannot be non-suited. Hence, opposed the writ petition.

10. I have perused the materials available on record.

11. The challenges raised in this writ petition are on two grounds,

(i). Sixth respondent is not a resident of Padi Village.

On a perusal of the Residence Certificate issued by the Zonal Deputy Tahsildar would clearly show that sixth respondent, Mr.Muthu Kumar, who is residing at Anna Nagar West Extn, comes under Padi Village. In such being a position, appointment of sixth respondent as hereditary trustee is valid in the eye of law.

(ii). The second issue raised is that since the seventh respondent is a practising Advocate, he cannot devote time to the affairs of the temple.



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12. It is relevant to extract the following:-

. Section 25 of the Tamil Nadu Religious & Charitable Endowments Act, 1995 Commissioner, etc., to observe appropriate forms and ceremonies:-

The Commissioner, an Additional Commissioner, a Joint Commissioner, a Deputy Commissioner or an Assistant Commissioner and every other person exercising powers of superintendence or control under this Act, shall so far as may be, observe forms and ceremonies appropriate to the religious institution in respect of which such powers are exercised and in the case of a math, act in conformity with the usages of the math in his dealing with the head of the math.

25 A - Qualifications of trustees – A person shall be qualified for being appointed as, and for being, a trustee of any religious institution or endowment -

(a) if he has faith in God



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(b). if he possess good conduct and reputation and commands respect in the locality in which the religious institution or endowment is situated;

(c). if he has sufficient time and interest to attend to the affairs of the religious institution or endowment

26. Disqualifications of trustees – (1) A person shall be disqualified for being appointed as, and for being, a trustee of any religious institution or endowment -

(a). if he does not profess the Hindu Religion

(b). if he is not a citizen of India

.....

(h). if he has acted adverse to the interest of any religious institution or endowment

26 (1-A) A person shall be disqualified for being appointed as, and for being, a trustee of a religious institution or endowment -



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(b). if he is employed as a paid legal practitioner on behalf of or against the religious institution or endowments

13. From the above, it is clear that any person who was employed as a paid legal practitioner on behalf of or against the religious institution, alone is not qualified under the Act for being appointed as a Trustee.

14. In such a view of the matter, merely on the assumption that seventh respondent being a Lawyer will not have sufficient time and interest to attend to the affairs of the religious institution or endowment, appointment of the seventh respondent cannot be questioned. The person, even in the legal practice can devote time and attend the religious institution. Therefore, it cannot be said that the appointment of seventh respondent is not according to the Scheme.

15. Accordingly, this writ petition is dismissed. No costs.



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Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No

Neutral Citation: Yes/No

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