



W.P.No.10152 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10152 of 2023
and
W.M.P.No.10182 of 2023

G.Narayanasamy Gounder

...Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious & Charitable
Endowment Department,
No.119, Uttamar Gandhi Road,
Thousands Lights West,
Nungambakkam, Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
182, First Floor, Cotton Market Complex,
Palladam Road, Tiruppur – 641 604.
- 3.The Executive Officer,
Arulmighu Ponkalamman Koil,
Palladam, Tiruppur – 641 664.
- 4.The Inspector,
HR & CE Department,
Arulmighu Ponkalamman Koil,
Palladam, Tiruppur – 641 664.



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5.The Inspector of Police,
Avinashipalayam Police Station,
Avinashipalayam,
Tiruppur District.

6.The Superintendent of Police,
Tiruppur District,
Palladam Road,
Tiruppur.

7.M.Manoharan

8.R.Dharmalingam

9.P.Ilamurugan

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent herein pertaining to the order dated 25.01.2023 made in Se.Mu.Na.Ka.No.4589-3/2022/ A1 and quash the same and direct the 2nd respondent herein to issue fresh notification calling for a list of names from Ponnarkula Sect of Kongu Vellala Gounder community selected through a fresh Mahasabha meeting for appointment as trustees to constitute 'Board of Trustees' for administration of Arulmighu Thiruneelakandiamman @ Kandiamman Thirukoil at Pongalur, Palladam Taluk, Tiruppur District as per the Scheme framed in O.A.No.20/1979 dated 21.06.1982 on the file of the Deputy Commissioner (Judicial), HR and CE Department, Coimbatore.



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For Petitioner : Mr.P.M.Duraiswamy
For R1 to R4 : Mr.N.R.R.Arun Natarajan
Special Government Pleader
(HR & CE)
For R5 & R6 : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The appointment of non-hereditary Trustees made in proceedings dated 25.01.2023 is sought to be quashed in the present writ petition.

2. The petitioner states that he belongs to Ponnarkula Sect of Konguvellala Gounder Community and Arulmighu Thiruneelakandiamman @ Kandiamman is the Kuladeivam for the family of the writ petitioner. The said temple is an ancient temple existing for more than 1000 years from the old Chola period. It is situated at Pongalur in Palladam Taluk, Tiruppur District.

3. The petitioner is a devotee of the temple for more than 60 years. He had been one of the trustees of the temple for many terms and served for the development of the temple. Arulmighu Thiruneelakandiamman temple was classified as a 'Scheme Temple' as per the order of the Deputy



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Commissioner (Judicial), Hindu Religious & Charitable Endowments

Administration Department, Madras – 34 made in O.A.No.20/1979 dated 21.06.1982 and as such, it is a religious institution administered by the “Board of Five Trustees” appointed by the Hindu Religious and Charitable Endowments Department upon nomination from “Ponnarkulam” sect of Kongu Vellala Gounder Community for the management of the temple and its properties.

4. The grievances of the writ petitioner is that the respondents R7, R8 and R9 were appointed as non-hereditary Trustees, without conducting any enquiry and these respondents have involved in certain activities, which is detrimental to the interest of the temple and therefore, their appointment is to be set aside.

5. The learned counsel for the petitioner made a submission that the respondents R7, R8 and R9, cut the old trees (aged about 60 years) without obtaining proper permission from the competent authorities and without any justification. In this regard, the petitioner submitted a complaint to the police and the said complaint was closed and further actions were initiated



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by the petitioner. That apart, the village people raised an objection in appointing the respondents R7, R8 and R9 as non-hereditary trustees, but the said objections were not considered by the competent authorities. Therefore, the petitioner is constrained to move the present writ petition.

6. The learned counsel for the petitioner drew the attention of this Court with reference to the actions initiated to register a Criminal Case against the respondents R7, R8 and R9 and more so, they raised several other allegations also. The complaint given by the community people against the above said respondents were not taken into consideration by the competent authorities.

7. The learned Special Government Pleader appearing on behalf of the Hindu Religious and Charitable Endowments (HR & CE) Department objected the said contentions by stating that mere submission of complaint by the community people would be insufficient to disqualify the persons, who were appointed as non-hereditary trustees in the Temple. Relevant records were verified and the credentials of the persons were also gone into and thereafter, the appointments were made in accordance with the



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provisions of the Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'HR & CE Act'). Thus, the allegations now set out in the affidavit cannot be a ground to set aside the order impugned.

8. The learned Special Government Pleader appearing on behalf of the HR & CE Department has stated that if at all the petitioner is aggrieved in respect of certain facts, he has to file an appeal under Section 47 of the HR & CE Act. Section 47(4) of the HR & CE Act contemplates that aggrieved person against the appointment of non-hereditary trustees may file an appeal before the Sub-Court, since the Court has been defined under Section 6 (7) of the HR & CE Act. Thus, the petitioner has to institute an appeal before the Sub-Court concerned for the purpose of adjudication of disputed issues.

9. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure that, the process through which, the decision is taken by the competent authorities is in consonance with the provisions of the Statute and Rules in force, but not the decision itself. The power of judicial review cannot be expanded for the purpose of adjudication



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of disputed issues, which all are to be done based on the documents and evidences on record. Merely based on certain selected copies of the proceedings, High Court cannot form a final opinion, which would undoubtedly result in injustice or cause prejudice to any of the parties. A complete adjudication in such matters are imminent and therefore, the petitioner is bound to exhaust the Statutory remedy contemplated under the provisions of the HR & CE Act. The very purpose and object of the Statutory appeals contemplated under the Statute at no circumstances be undermined by the High Court. There is a purpose, for which, such Statutory appeals are created by way of an enactment. The Appellate authorities will be in a position to appreciate the original records, evidences including oral evidences. Therefore, the findings of the original authority and the Appellate authority would be of greater assistance to the High Court, while exercising the powers of judicial review under Article 226 of the Constitution of India. Thus, the writ petitions filed without exhausting the Statutory remedy cannot be entertained ordinarily. Merely raising the ground of principles of natural justice would be insufficient to entertain a writ petition. All such grounds can be raised before the Appellate Authority and in the present case, it is the Sub-Court, which is competent to adjudicate



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and make its finding on such disputed facts between the parties.

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10. Merely based on the affidavit filed in support of the writ petition or based on certain selective xerox copies of the documents, Courts cannot form an opinion and therefore, this Court is of the considered opinion that exhausting the Appellate remedy is the rule. Entertaining a writ petition is an exception.

11. In the present case, the petitioner raises several allegations against the newly appointed non-hereditary trustees and such allegations are to be enquired into.

12. The learned Special Government Pleader appearing on behalf of the HR & CE Department pointed out there is no disqualification under Section 26 of the HR & CE Act and the authorities after verifying the records, appointed the respondents R7, R8 and R9 as non-hereditary trustees. However, the petitioner states that under Section 26 (1)(h) of the HR & CE Act, the respondents R7, R8 and R9 are not qualified. These facts are to be adjudicated. The material facts raised between the parties deserves



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to be verified with reference to the documents and evidences available on
record.

13. That being the factum, the petitioner is at liberty to prefer an appeal under Section 47 of the HR & CE Act for effective adjudication of disputed facts between the parties.

14. With this liberty, the writ petition stands disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

31.03.2023
(1/2)

Index : Yes
Speaking order
Neutral Citation: Yes
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To

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S.M.SUBRAMANIAM, J.

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