



WEB COPY



W.P. Nos.9704 & 2610 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. Nos.9704 & 2610 of 2020 and
W.M.P. Nos.3035, 11828 & 11829 of 2020 and 19886 of 2023

W.P. No.9704 of 2020

A.Gajapathy
S/o.Late C.B.Arumugamchettiar
Chairman Board of Hereditary Trustee
A/m.Kadumbadi Chinnamman Temple
53, Jayaramchetty Street, Saidapet West
Chennai 600 015

... Petitioner

Vs.

- 1.The Commissioner
HR&CE Department
Uthamar Gandhi Salai
Nungambakkam, Chennai - 600 034
- 2.The Joint Commissioner
HR&CE Department
Uthamar Gandhi Salai
Nungambakkam, Chennai - 600 034
- 3.The Election Officer/Assistant Commissioner
HR&CE Department
Uthamar Gandhi Salai
Nungambakkam, Chennai - 600 034
- 4.S.Kasturibai



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5.V.Ramanibai

6.C.P.Prabhakaran

7.S.Adhi Lakshmi

8.S.Shankar

9.S.Kanniappan

10.S.Ganesan

11.B.Rani

12.M.Prema

12.P.Latha

13.S.Vijayalakshmi

15.A.Venkatesan

16.C.Anusuya

17.V.Banumathy

18.C.Sridhar

19.E.Shanthi

20.S.Sumathy

21.K.Mahalakshmi

22.A.Selvakumar

23.A.Ravi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records pertaining to notice in Na.Ka. No.20314/2019/L5/dated 22.06.2020 of the 1st respondent and quash the same and consequently direct the respondents 1 to 3 to conduct election to the post of Chairman of the Board of Hereditary Trustees.



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For Petitioner : Ms.G.Sumitra

For Respondents : Mr.S.Yashwanth,
Addl. Govt. Pleader (HR&CE)
for R1 to R3
No Appearance for R4 to R19
Mr.V.Srikanth for R20
No Appearance for R21 to R23

W.P. No.2610 of 2020

S.Sumathi

... Petitioner

Vs.

- 1.The Principal Secretary
Tourism, Culture and Religious Endowments Department
Government of Tamil Nadu
Secretariat, Fort St. George, Chennai - 8
- 2.The Commissioner
Hindu Religious and Charitable Endowments Department
119, Nungambakkam High Road
Nungambakkam, Chennai - 600 034
- 3.The Joint Commissioner
Hindu Religious and Charitable Endowments Department
119, Nungambakkam High Road
Nungambakkam, Chennai - 600 034
- 4.The Chief Auditing Officer
Hindu Religious and Charitable Endowments Department
119, Nungambakkam High Road
Nungambakkam, Chennai - 600 034



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5.S.Kasturibai

6.V.Ramanibai

7.C.P.Prabhakaran

8.S.Adhi Lakshmi

9.S.Shankar

10.S.Kanniappan

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18.V.Banumathy

19.C.Sridhar

20.E.Shanthi

21.S.Sumathy

22.K.Mahalakshmi

23.A.Selvakumar

24.A.Ravi

(R5 to R24 suo motu impleaded vide order
dated 04.11.2020 made in W.P. No.2610/2020)

25.A.Gajapathy

S/o.Late C.B.Arumugamchettiar

Chairman Board of Hereditary Trustee

A/m.Kadumbadi Chinnamman Temple

53, Jayaramchetty Street, Saidapet West



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Chennai 600 015

(R25 impleaded vide order dated 18.02.2021
made in WMP No.4419/2021 in W.P. No.2610/2020)

26.A.Baskaran

... Respondents

(R26 impleaded vide order dated 07.04.2021 made in
WMP No.817 of 2021 in W.P. No.2610/2020)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the respondents to conduct special audit as contemplated under Para-4 in page 22 of the order dated 14.07.2014 of the 2nd respondent made in Na.Da.Na.Ka.No.53137/2010/A1.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.S.Yashwanth,
Addl. Govt. Pleader (HR&CE)
for R1 to R4
No Appearance for R5 to R24
Ms.G.Sumithra for R25
Mr.R.Prabakar for R26

COMMON ORDER

The issue here pertains to the affairs of Arulmighu Kadumbadi Chinnamman Temple, Saidapet. According to the petitioner in W.P.No.9704 of 2020, this temple was established by his ancestors, and it ultimately devolved on four branches with a



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combined total membership of 21 persons. This body of persons from the four branches would constitute the Hereditary Trustees of the temple, and the HR&CE Department hold an election to select a Chairman to the Board of Trustees from among the Trustees. And that the Chairman of the Trustees will hold the office for a term of two years.

2. While so, sometime in 2010, the HR&CE Department found certain reasons to hold an enquiry into the affairs of the temple and it found that six Trustees, which includes the Chairman of the Board of Trustees have engaged in certain activities undermining the well being of the temple and its affairs. The Department therefore, suspended the entire body of Trustees. The suspended Trustees have filed several writ petitions, and they were taken on record by this Court in W.P. No.12770 of 2010 etc., batch. Those cases were decided and disposed of by a learned Single Judge of this Court vide order dated 24.04.2012, with a direction to the Commissioner, HR&CE to hold an enquiry on the alleged malpractices of Board of Trustees.

3. Accordingly, the Commissioner, HR&CE is stated to have held an enquiry and passed his proceedings on 14.07.2014. Vide this proceedings, the Commissioner treated the period of suspension imposed on all the Trustees except Tr.A.Baskaran, as penalty, and reinstated them to hold the office of Trustees. So far as Baskaran is



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concerned, for large scale malpractices, the Commissioner had directed his removal from the Board of Trustees. Mr.A.Baskaran is said to have challenged it before this Court in W.P. No.14054 of 2015, and lost the same. Ultimately, he preferred an appeal in W.A. No.3412 of 2019, challenging the order passed in W.P. No.14054 of 2015, and the appeal too came to be dismissed.

4. It is in this setting, the rest of the Hereditary Trustees were organising themselves for the election of the Chairman, which as stated earlier, was to be conducted by the Department. Now out of a bolt from the blue, they received a notice from the first respondent dated 22.06.2020, informing the Trustees of its intent to appoint an Executive Officer for the temple, and sought their objections. This is now under challenge in this writ petition.

5. In the meantime, one of the Trustees, who is also the sister of the present petitioner has filed W.P.No.2610 of 2020, seeking a direction to the Department to initiate action against the present petitioner and four others. In this petition, Tr.A.Baskaran got himself impleaded as the 26th respondent, and Gajapathy (the petitioner in W.P.No.9704 of 2020) was impleaded as the 25th respondent.

6. Mr.S.Yashwanth, the learned Additional Government Pleader, who is appearing for



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respondents 1 to 3 made a statement that the second respondent had made some enquiries and found that the petitioner in W.P. No.9704 of 2020, is found guilty of certain misdeeds.

7. This is the setting in which the petitioner in W.P. No.9704 of 2020, seeks a direction to the HR&CE Department to hold election to the office of the Chairman of the Board of Trustees.

8. The enquiry, which the petitioner in W.P. No.2610 of 2020 is stated to have been conducted by the Joint Commissioner, HR&CE, namely 4th respondent in that case, and has forwarded his report to the Secretary to the Government, HR&CE, the first respondent in W.P. No.9704 of 2020. A copy of the said report is also made available before this court.

9. So far as the cause of action in W.P. No.2610 of 2020 and the nature of prayer sought therein is concerned, it has been addressed now by the 4th respondent and the matter is now pending with the Secretary to Government, HR&CE Department, namely the first respondent in W.P. No.2610 of 2020. Therefore, nothing more requires to be done vis-a-vis W.P. No.2610 of 2020 and the parties are free to keep their fingers crossed for the decision to be taken by the first respondent in W.P. No.2610 of 2020.



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10. Learned counsel for the petitioner in W.P. No.9704 of 2020, against whom the petitioner in W.P. No.2610 of 2020 requires launching of enquiry is concerned, has made certain statements in his defence vis-a-vis the report, which the fourth respondent, namely the Joint Commissioner, HR&CE had filed. Since the enquiry commenced by the Joint Commissioner has not concluded yet, and since it is pending with the first respondent, this court does not intend to enter into that arena and only requires the first respondent to give a right of hearing, to the petitioner in both the writ petitions before passing any appropriate orders. This may be done within a period of eight weeks from the date of receipt of a copy of this order.

11. Turning to W.P. No.9704 of 2020 is concerned, the department will be electing a Chairman for the Board of Hereditary Trustees for a term of two years. In this regard, the two year term of the petitioner in W.P. No.9704 of 2020 has come to an end, and he has filed the said petition requiring the department to hold election to appoint its successor.

12. The first respondent in W.P. No.9704 of 2020, namely the Commissioner, HR&CE, is now directed to hold an election of the Chairman of the Board of Trustees. So far as participation of the petitioner in W.P. No.9704 of 2020 for re-election as Chairman is



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concerned, that will depend on the outcome of the enquiry report of the first respondent in W.P. No.2610 of 2020. In the eventuality of any charge is proved against the petitioner in W.P. No.9704 of 2020 or whoever against whom any charge is proved which in the estimate of the first respondent in W.P. No.2610 of 2020 may invite disqualification of the candidature, and he shall not be considered. The Commissioner, HR&CE, shall complete the process of electing the successor by holding and completing the process of election to the office of the Chairman of the Board of trustees within eight weeks next after the enquiry report is finalised by the first respondent in W.P. No.2610 of 2020.

13. Accordingly, both the writ petitions are disposed of with the above directions. However, there is no order as to costs. Consequently, the connected writ miscellaneous petitions are closed.

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Index : Yes/No
Speaking/Non-speaking order
Asr



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HR&CE Department
Uthamar Gandhi Salai
Nungambakkam, Chennai - 600 034
6. The Government Pleader,
High Court, Madras.



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