IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28**.04.2023**

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**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.No.13751 of 2023**
**and WMP Nos.13429 & 13431 of 2023**

P.S.Shanmugasundaram,
(Hereditary Trustee),
S/o.Somasundaram,
No.26, South Mada Street,
Padi, Chennai 50.

...Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Tourism, Culture & Religious Endowments (RE3-1) Department,
Fort st. George, Chennai 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nugambakkam, Chennai 34.

3.The Joint Commissioner of Hindu Religious
and Charitable Endowment,
Yadhava Street, Padi,
Chennai 50.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,

Yadhava Street, Padi,
Chennai 50.

5.The Executive Officer,
Arulmigu Thiruvalleeswara Temple,
Padi, Chennai 50.

6.R.Vijay,
S/o.S.Rangarajan,
19/20, A – Block,
Land Marvel Flats,
Sannadhi Street,
Villivakkam, Chennai 600 049.

...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the proceedings of the 5th Respondent herein relating to his proceedings No.Nil, dated 19.04.2023 in so far as the same relates to the election of Chairman of Board of Trustees of Arulmigu Thiruvelleeswarar Temple, Padi, Chennai 600 050 is concerned and quash the same and thereby nominate the Petitioner as Chairman of Board of Trustee as per Section 48(2)(i) of the HR & CE Act 1959.

For Petitioner : Mr.A.R.Suresh
for Mr.K.Arumugam

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader
(for R1 to R5)

**ORDER**

This writ petition has been filed challenging the proceedings of the 5th respondent dated 19.04.2023 which relates to the election of a chairman of the Board of trustees Arumighu Thiruvalleswarar Temple and for a consequential direction to nominate the petitioner as the Chairman of the Board of Trustees in accordance with Section 48(2) (1) of the Hindu Religious and Charitable Endowments Act (hereinafter called as the "Act")

2. Heard Mr.A.R.Suresh, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government pleader for respondents 1 to 5.

3. The main grievance that has been expressed by the petitioner is that the petitioner is the hereditary trustee of the above said temple and two non-hereditary trustees were appointed by the HR&CE Department. While so, Section 48(2) (I) of the Act, specifically states that where the religious institution

is having one hereditary trustee, such hereditary trustee alone shall be the Chairman of the Board of trustees. In the light of this provision, the petitioner alone should have been appointed as the Chairman of the Board of trustees of the temple. Whereas, the department had proceeded to conduct an election for the election of a Chairman of the Board of Trustees which runs contrary to the legal provision. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The temple in question is governed by a scheme. The relevant portions in the scheme are extracted hereunder :-

> *IV. The management of the temple and all its properties shall subject to the provisions of this scheme vest in a Board of Trustees consisting of the hereditary trustee and two non-hereditary trustees to be appointed by the Hindu Religious endowment Board from time to time. One of the Non-hereditary*

*trustees shall (as far as possible) be a smartna Brahmin resident of Madras and Chingelput District and the other permanent case Hindu resident of Padi village. Persons paying a kist of Rs.25/- income, professional or property tax only shall be eligible for appointment.*

*VII. When there are more trustees than one, the trustees shall within 1 month of the appointment, choose one from among themselves to function as managing trustee. If the trustee do not choose one within the time the Board shall nominate one of them as managing trustee. The managing trustee shall also be liable to be removed by the Board for good and sufficient cause and such an order shall be final.*

5. As per the scheme, the temple will be administered by a hereditary trustee and two non-hereditary trustees to be appointed by the HR&CE Department. When there

are more trustees than one, the trustees must among themselves appoint a managing trustee and if that does not happen, the selection of a Managing trustee must takes place.

6. In line with the above scheme, the Department had called for election of the Managing trustee. It is also brought to the notice of this Court by the learned Special Government Pleader that the election took place on 20.04.2023 and the petitioner participated in the same and he nominated himself as the Managing trustee. The other two nominated one Vijay to be the Managing Trustee and accordingly, going by the majority, the said Vijay has been appointed as the Managing Trustee of the board of trustees of the temple.

7. In the considered view of this Court, if the temple is not governed by a scheme, probably the provision under Section 48 (2) (I) of the Act will govern the appointment of the chairman/ managing trustee. However, the temple is

governed by a scheme and the scheme makes it very clear that when there is more than one trustee, they have to chose among themselves one of them as the Managing trustee and in the absence of the same, only an election should be conducted. The learned counsel for the petitioner wanted to interpret clause VII as if it talks about the availability of more than one hereditary trustee. Such an interpretation will not hold water since clause IV makes it very clear that there will be only one hereditary trustee and two non-hereditary trustee who will be administering the temple. Hence, clause IV and Clause VII read together and the election that was conducted by the department perfectly falls within the terms of the scheme that governs the concerned temple.

8. In the light of the above discussion, this Court does not find any ground to interfere with the impugned proceedings of the 5th respondent dated 19.04.2023 and

accordingly, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

**28.04.2023**

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N.ANAND VENKATESH.,J
rka

To

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