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W.P. Nos. 13847, 13859 and 13877 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 13847, 13859 and 13877 of 2023

and

W.M.P. Nos.13507, 13509, 13511, 13512, 13528 to 13531
and 13533 to 13536 of 2023

W.P. No. 13847 of 2023:-

S.Suresh Kumar

... Petitioner

-VS-

1. State of Tamil Nadu Represented by its
Secretary to Government
Hindu Religious and Charitable Endowments Department
Fort St. George, Chennai.
2. Commissioner
Hindu Religious and Charitable Endowments Department
Mahatma Gandhi Road
Nungambakkam, Chennai.
3. The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Kanchipuram.
4. Arulmigu Bhramapuriswarar Temple
Represented by its Fit Person
Peru Nagar Village
Uthiramerur Tauk
Kanchipuram District.
5. M.Natarajan
6. K.Kumaravel
7. C.Hariharan
8. T.Vijayaragavan



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9. U.Yuvaraj

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying for the following relief:-

(i) issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Se.Mu.Na.Ka.No.4234/2019/A3 dated 12.01.2023 on the file of the Third Respondent quash the same and consequentially direct the Third Respondent to appoint the Petitioner as one of the Trustees to the Arulmigu Bhramapuriswarar Temple in Peru Nagar Village, Uthiramerur Taluk, Kanchipuram District, as per the resolution of the meeting of the Thondai Mandala Saiva Vellala community people of Peru Nagar Village held on 08.05.2022 and 28.08.2022.

(ii) issue a Writ of Certiorari to call for the records relating to the proceedings in Na.Ka.No.4234-1/2019/A3 dated 12.01.2023 on the file of the Third Respondent quash the same.

For Petitioner : Mr. T.Sathiyamoorthy

For Respondents : Mr. N.R.R.Arun Natarajan
Special Government Pleader (RR1 to 4)

Mr. S.Prabhu (RR5 to 7)

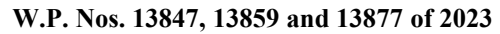
No appearance (RR8 & 9)

W.P. No. 13859 of 2023:-
S.Shanmugam

... Petitioner

-VS-

1. State of Tamil Nadu Represented by its
Secretary to Government
Hindu Religious and Charitable Endowments Department



2. Commissioner

3. The Assistant Commissioner

4. Arulmigu Bhramapuriswarar Temple

5. M.Natarajan

6. K.Kumaravel

7. C.Hariharan

8. T.Vijayaragavan

9. U.Yuvaraj

... Respondents

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(ii) issue a Writ of Certiorari to call for the records relating to the proceedings in Na.Ka.No.4234-1/2019/A3 dated 12.01.2023 on the file of the



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Third Respondent quash the same.

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For Petitioner : Mr. T.Sathiyamoorthy

For Respondents : Mr. N.R.R.Arun Natarajan
Special Government Pleader (RR1 to 4)

Mr. S.Prabhu (RR5 to 7)

No appearance (RR8 & 9)

W.P. No. 13877 of 2023:-

M.S.Suresh

... Petitioner

-vs-

1. State of Tamil Nadu Represented by its
Secretary to Government
Hindu Religious and Charitable Endowments Department
Fort St. George, Chennai.
2. Commissioner
Hindu Religious and Charitable Endowments Department
Mahatma Gandhi Road
Nungambakkam, Chennai.
3. The Assistant Commissioner
Hindu Religious and Charitable Endowments Department
Kanchipuram.
4. Arulmigu Bhramapuriswarar Temple
Represented by its Fit Person
Peru Nagar Village
Uthiramerur Tauk
Kanchipuram District.
5. M.Natarajan
6. K.Kumaravel
7. C.Hariharan
8. T.Vijayaragavan
9. U.Yuvaraj

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying for the following relief:-

- (i) issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Se.Mu.Na.Ka.No.4234/2019/A3 dated 12.01.2023 on the file of the Third Respondent quash the same and consequentially direct the Third Respondent to appoint the Petitioner as one of the Trustees to the Arulmigu Bhramapuriswarar Temple in Peru Nagar Village, Uthiramerur Taluk, Kanchipuram District, as per the resolution of the meeting of the Thondai Mandala Saiva Vellala community people of Peru Nagar Village held on 08.05.2022 and 28.08.2022.
- (ii) issue a Writ of Certiorari to call for the records relating to the proceedings in Na.Ka.No.4234-1/2019/A3 dated 12.01.2023 on the file of the Third Respondent quash the same.

For Petitioners : Mr. T.Sathiyamoorthy

For Respondents : Mr. N.R.R.Arun Natarajan
Special Government Pleader (RR1 to 4)

Mr. S.Prabhu (RR5 to 7)

No appearance (RR8 & 9)

COMMON ORDER

Heard Mr. T.Sathiyamoorthy, Learned Counsel for the Petitioners, Mr. N.R.R.Arun Natarajan, Learned Special Government Pleader appearing for the First to Fourth Respondents, Mr. S.Prabhu, Learned Counsel for the Fifth to



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Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The grievance ventilated by the petitioners in these cases is that the selection of trustees of the Temple of the Fourth Respondent in the impugned order passed by the Third Respondent has been made without disclosing the basis on which the *inter se* assessment of the competing applicants has been made.

3. The Deputy Commissioner, Hindu Religious and Charitable Endowments (Administration) Department, Madras in the order dated 12.05.1982 in O.A. No. 77 of 1975 has framed the following scheme for the administration of the Temple of the Fourth Respondent:-

“ *Scheme*

1. *The scheme shall come into force from the date of the publication in the Chengalpattu District Gazette.*
2. *The administration of Arulmigu Brammapureswarar Temple, Peunagar, Uthiramerur, Chengalpattu District and all properties movables and immovables which belong to or have been of hereafter be given dedicated or*



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endowed thereto of acquired for the temple shall in general or to any one or more the deities in particular do and shall vest in a Board of Trustees not exceeding five and not less than three who shall be appointed from and amongst the members of the Thondai Mandala Saiva Vellalas Community of 80 houses and who are permanent residents of Perunagar Village, Uthiramerur Taluk, Chengalpatu district by appropriate in accordance with the provisions of the act.

3. *In all other respects, the administration shall be carried on in accordance with the provisions of the Hindu Religious and Charitable Endowments Act and Rules in Force from time to time.”*

On perusal, it could be noticed that there is no requirement for the Third Respondent to assign reasons for selecting the Trustees from amongst applicants, who have to be members of any of the 80 houses of Thondai Mandala Saiva Vellala community, who are permanent residents of Perunagar Village in Uthiramerur Taluk of Kanchipuram District.



4. At this juncture, it must be highlighted here that the qualification and disqualification of Trustees of a religious institution have been provided under Sections 25-A and 26 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (hereinafter referred to as 'the Act' for short). It is not the case of the Petitioners in these Writ Petitions that the selected applicants do not possess the requisite qualification or are disqualified from holding the said post in terms of the existing scheme and the relevant statutory provision. In that view of the matter, it would not be possible to interfere with the appointments made in the impugned order by the Third Respondent, but it is hastened to clarify that if the selected applicants either do not possess the qualification or are disqualified from holding the said post, the Petitioners are not precluded from making necessary application under Section 26(3) of the Act for their removal following the prescribed procedure and no view is expressed by the Court on the merits of the controversy in that regard.

5. In response to the query made, Learned Special Government Pleader has filed a memo dated 04.10.2023 stating that the Second Respondent intends to initiate *suo motu* proceedings under Section 64(5) of the Act to modify the Scheme in the order dated 12.05.1982 in O.A. No. 77 of 1975 for selection of Non-Hereditary Trustees of the Temple of the Fourth Respondent. It is needless



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to add here that the concerned authorities shall strictly follow the prescribed procedure under the Act and Framing of the Scheme Rules while carrying out the said exercise to modify the scheme for appointment of Trustees of the Temple of the Fourth Respondent.

In the result, these Writ Petitions are disposed with the aforesaid observations. Consequently, connected Miscellaneous Petitions are closed. No costs.

04.10.2023

Maya

Index: Yes/No

NCS : Yes/No

Note: Issue order copy by 31.10.2023.

To

1. The Secretary to Government of Tamil Nadu
Hindu Religious and Charitable Endowments Department
Fort St. George, Chennai.
2. The Commissioner
Hindu Religious and Charitable Endowments Department
Mahatma Gandhi Road
Nungambakkam, Chennai.
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P.D. AUDIKESAVALU, J.

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