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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.17146 of 2023
and WMP Nos.16311 and 16312 of 2023

Mr.G.S.Badri Narayanan

Petitioner

vs.

1. The Principal Secretary,
Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Fort St. George,
Chennai 600 009.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Vellore - 12.
3. S.Sridharan
4. G.Usha Ravi
5. G.Mohanan
6. V.Suresh Babu
7. M.Nagan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent in G.O.(Pa) No.97 and quash the G.O dated 16.05.2023 appointing the



respondents 3 to 7 as Non - hereditary trustees for the Arulmigh Subramaniya Swami Temple, Tiruttani.

For Petitioner : Mr.S.Balasubramnian

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader
for R1 and R2

ORDER

This writ petition has filed against the impugned proceedings in G.O.No.(Pa) No.97 dated 16.05.2023 issued by the 1st respondent appointing non-hereditary trustees for Arulmigu Subramaniya Swami Temple at Thiruttani.

2. Heard Mr.S.Balasubramnian, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government pleader for respondents 1 and 2.

3. The case of the petitioner is that steps were taken for appointment of non-hereditary trustees by the 2nd respondent and applications were called for through proceedings dated 08.12.2020. The petitioner also filed an application on 09.11.2021. The main grievance that has been expressed by the petitioner is that there were only 42 applicants



who had submitted their application for being considered as Non-hereditary trustees and whereas, the 3rd respondent who did not even file an application and whose name is not found in the list of applicants, has been appointed as a Non-hereditary trustee of the temple. Apart from the same, the learned counsel also raised certain issues on merits questioning the impugned Government Order.

4. The learned Special Government Pleader appearing on behalf of respondents 1 and 2 submitted that there were totally 43 applicants who had applied for being considered to be appointed as non-hereditary trustees of the temple and one such applicant was the 3rd respondent. The learned Special Government Pleader further submitted that any person who is aggrieved by the appointment of the non-hereditary trustees, has been given an effective and alternative remedy under Section 47(4) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, (hereinafter referred to as the Act"). It was therefore contended that the petitioner cannot maintain this writ petition in view of this alternative remedy.

5. The learned counsel for the petitioner submitted that there has been some manipulation in appointing the 3rd respondent as the non-hereditary trustee and hence, urged this Court to look into the original



documents for the satisfaction of the Court to see if that there were really

43 applicants and whether the 3rd respondent had also made an application.

The learned counsel further submitted that there is a specific bar under proviso to Section 47(4) of the Act and the Court has been denuded of the power to pass any interim order even if the appointment of the non-hereditary trustees is challenged.

6. This Court in order to satisfy itself on the allegation made against the 3rd respondent, verified the entire original records. On going through the same, it is seen that there were originally 43 applicants who had applied for participation to be appointed as non-hereditary trustees of the temple. The note that has been put up on 27.08.2022 makes this position clear. Initially, verification was done only for 38 applicants and thereafter, the verification was done for the balance five applicants also and the final list was prepared through proceedings dated 09.12.2022 containing the names of 43 applicants and the name of the 3rd respondent is found in Sl.No.43. Ultimately, the selection was made by considering all the 43 applications and five non-hereditary trustees have been appointed for the temple.



Court by the Department shows that there are 43 applicants and the 3rd respondent was also one of the applicant. In view of the same, this Court does not find the allegation made by the petitioner against the 3rd respondent supported by the records produced before the Court.

8. A person who is aggrieved by the selection of non-hereditary trustees has been given an effective alternative and the efficacious remedy under Section 47(4) of the Act. Hence, on an alternative remedy being available, this Court will shun to entertain a writ petition. Just because, there is no scope for the Court to stay the appointment already done, that by itself is not a ground for entertaining the writ petition. This is more so since such a restriction that is imposed under proviso to Section 47(4) of the Act has not been put to challenge.

9. In the light of the above discussion, this Court holds that the petitioner cannot maintain the present writ petition and the relief sought for by the petitioner cannot be granted by this Court. It is left open to the petitioner to work out his remedy under Section 47(4) of the Act before the appropriate Court.



10. Accordingly, this writ petition stands dismissed. No costs.

Consequently, the connected miscellaneous petitions are closed.

09.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation case : Yes
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To

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N. ANAND VENKATESH, J.

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