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W.P.No.21237 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.21237 of 2023 and
W.M.P.Nos.20650 & 20652 of 2023

K.Pichaipillai

...Petitioner

Vs.

1.The Joint Commissioner
Hindu Religious and Charitable
Endowment Department,
Kottai Mariamman Temple Compound,
Salem-636 001.

2.The Joint Commissioner
Hindu Religious and Charitable
Endowment Department,
20-F, Chinnamuthu street,
Perundurai Road,
Erode-638 011,
Erode District.

3.The Assistant Commissioner/Executive Officer
A/m.Arthanareeswarar Temple,
Tiruchengode-637 211,
Namakkal District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for

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issuance of a Writ of Certiorarified mandamus calling for the records relating to the impugned order in Proc.Na.Ka.No.12865/06-Aa2 dated 09.11.2006 passed by the 1st respondent, quash the same and consequently forbear the respondents from interfering with the petitioner's right to perform 12th day kattalai on Vaikasi Visaga Car Festival in A/m.Arthanareeswarar Thirukovil, Tiruchengode, Namakkal District by considering his representation dated 26.06.2023.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.S.Yashwanth
Additional Government Pleader (HR &CE)

ORDER

The writ petition is filed challenging the order passed by the 1st respondent appointing fit person of the 12th Mandapa Kattalai attached to Arulmighu Arthanareeswarar Thirukovil, Tiruchengode, Namakkal District.

2. According to the petitioner, he has been performing Kattalai on the eve of 12th day of Vaigasi Visagam Car festival in Arulmighu Arthanareeswarar temple on behalf of his community people as a person appointed as one of the three trustees representing the petitioner's community. The 3rd respondent passed an order appointing a fit person to administer the Kattalai and the said



order was challenged by the petitioner in the writ petition in W.P.No.1726 of 2005. The said writ petition came to be disposed of by this Court on 26.10.2009 by directing the 1st respondent to dispose of the application filed by the members of petitioner's community under Section 64(1) of HR & CE Act for framing of scheme. While giving such direction, this Court also observed that till the disposal of original application, the appointment of fit person as a temporary measure shall continue.

3. Even, during pendency of the said writ petition on 09.11.2006, the impugned order was passed by the 1st respondent appointing the 3rd respondent as a fit person of the 12th Mandapa Kattalai over which the petitioner and persons belonging to his community claiming right.

4. The petitioner, for the reasons well known to him has not challenged the said order for the past 19 years. Now, the present writ petition has been filed challenging the appointment of the fit person by the 1st respondent on the ground the said appointment can be made only by the Assistant Commissioner under Section 49 of HR & CE Act.



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5. Mr.S.Yashwanth, learned Additional Government Pleader (HR &CE) takes notice for the respondents. On instructions, he submits that 3rd respondent temple is a listed temple under Section 46(ii) of HR & CE Act. Hence, the Joint Commissioner is the appropriate authority to appoint fit person.

6. As mentioned earlier the impugned order was passed as early as on 09.11.2006. The petitioner has no justifiable cause to explain the inordinate delay in challenging the impugned order. The petitioner has chosen to challenge the impugned order nearly after 19 years. Therefore, the writ petition is liable to be dismissed only on the ground of laches.

7. The earlier order appointing fit person was challenged before this Court in W.P.No.1726 of 2005. While disposing the said writ petition by directing the 1st respondent to dispose of the original application filed for framing scheme under Section 64(1) of the HR & CE Act, this Court clarified that the fit person can continue. In such circumstances, the writ petition filed



by the petitioner challenging the appointment of fit person which was made when the earlier writ petition was pending is misconceived and liable to be dismissed.

8. In view of the discussion made earlier, this Court is not inclined to interfere with the impugned order passed by the 1st respondent. However, as stated by the petitioner, an original application filed for framing of scheme in respect of 12th Mandapa kattalai attached to 3rd respondent temple is pending before the 1st respondent in O.A.No.5 of 2007. In spite of earlier direction issued by this Court in W.P.No.1726 of 2005 to dispose of the said Original Application within a period of ten weeks, it has not been disposed of till date. In fact, the said Original Application was transferred from the file of 1st respondent to 2nd respondent and re-numbered as O.A.No.14 of 2021. Therefore, this Court issues a direction to the 2nd respondent to dispose of the Original Application in O.A.No.14 of 2021 within a period of eight weeks from the date of receipt of a copy of this Order.



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9. All the parties to the said Original Application are expected to co-operate with the 2nd respondent for early disposal of the same.

10. With the above observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

19.07.2023

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

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Hindu Religious and Charitable
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S.SOUNTHAR, J.

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