



W.P. No. 30584 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 19.10.2023**

**CORAM**

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

**W.P. No. 30584 of 2023**

**and**

**W.M.P. Nos. 30221, 30222 and 30225 of 2023**

1. C.Ravichandran @ Ravi

2. K.Kothandan

3. A.Dhinakaran

4. M.Shanmugam

... Petitioners

-VS-

1. The Joint Commissioner,  
H.R. & C.E. Department – Kancheepuram,  
A.K. Thangavelar Street,  
Kanchipuram District.

2. The Assistant Commissioner,  
H.R. & C.E. Department – Kancheepuram,  
Collectorate Campus,  
Kancheepuram District.

3. T.Kumaravel

4. M.Gopal

5. A.Karunakaran  
Respondents

...

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India,



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1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of appointment of the Third to Fifth Respondents as trustees of the Temple in Proceedings Se. Mu. Na. Ka. No. 1861/2022/A3/ dated 07.09.2023 on the file of the Second Respondent and quash the same and direct the First Respondent to appoint the Petitioners as trustees of the Temple according to the scheme framed by the Deputy Commissioner, HR & CE, Chennai in O.A. No. 39 of 1988 dated 14.11.1990.

For Petitioners : Mr. S.Doraisamy

For Respondents : Mr. K.Karthikeyan,  
Government Advocate (for R1 & R2)

## ORDER

Heard Mr. S.Doraisamy, Learned Counsel for the Petitioners and Mr. K.Karthikeyan, Learned Government Advocate, who takes notice for the First and Second Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. Having regard to the nature of order proposed to be passed in the Writ Petition, which would not cause any prejudice to the Third to Fifth Respondents, notice to them is dispensed with.



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3. In respect of Arulmigu Amirthakandeeswarar Temple, Naickenpet, Kancheepuram Taluk, Chengalpattu District, a scheme under Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (hereinafter referred to as 'the Act' for short), had been framed by the Deputy Commissioner, Hindu Religious and Charitable Endowments Department, Madras by order dated 14.11.1990 in O.A. No. 39 of 1988 in which clause (2) provides as follows:-

*“2. The Administration of Arulmigu Amirthakandeeswarar Temple, Naickenpet, Kancheepuram Taluk, Chengai Anna District, and its properties, both movable & immovable, which belong to or have been or hereafter be given, dedicated or endowed thereto or acquired for the Temple, shall vest in a board of trustees not less than three and not exceeding five to be constituted by the competent authority in accordance with the provisions of the Tamil Nadu H.R. & C.E. Act 22 of 1959 from among the persons of Senguntha Mudaliar Community permanently residing in Nadu Street, Chinna Street of*



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*Naickenpet Village, Chengai Anna District, subject to their being qualified for such appointment under the provisions of the Act 22 of 1959 and by an Executive Officer appointed by the Commissioner, H.R. & C.E. Admn. Department, under Section 45(1) of the Act 1959.”*

It is the contention of the Petitioners that the Second Respondent by Proceedings in Se. Mu. Na. Ka. No. 1861/2022/A3/dated 07.09.2023 has appointed the Third to Fifth Respondents as Trustees of the said Temple without possessing the requisite qualification prescribed under the aforesaid clause in the scheme and that despite representations dated 14.12.2022 and 19.04.2023 made, no action has been taken necessitating the filing of this Writ Petition challenging their appointment and for consequential direction to the First Respondent to appoint the Petitioners as Trustees of the Temple according to that scheme.

4. At this juncture, reference must be made to Section 26(3) of the Act, which provides that if any question arises as to whether a trustee has become subject to any of the disqualification, the question shall be referred for the decision of the Joint/Deputy Commissioner.



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5. Learned Government Advocate appearing for the First and Second Respondents submits that in respect of the aforesaid Temple, the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Kanchipuram, who is the First Respondent in the Writ Petition, is the competent authority who would have to deal with the matter.

6. Having regard to the aforesaid legal position, as there is nothing which precludes the Petitioners from raising the contentions in the Writ Petition in an application under Section 26(3) of the Act to be submitted to the First Respondent, who is bound to deal with the same before giving to any ultimate conclusion, there is no necessity for the Court to intervene at this pre-mature stage of the matter.

7. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) the Petitioners may make an application under Section 26(3) of the Act before the First Respondent relating to the ineligibility and disqualification alleged by the Petitioners against the Third to Fifth Respondents;
- (ii) if such application is made, the First Respondent after affording full



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opportunity of hearing to the Petitioners and the Third to Fifth Respondents and all other persons concerned, shall deal with each of the contentions raised and pass a reasoned orders on merits in accordance with law and communicate the decision taken under written acknowledgment;

- (iii) it shall be ensured that there are atleast two effect hearing every month showing the progress of the case;
- (iv) in the event it is found that the Third to Fifth Respondents are not qualified for holding the said office, the vacancies shall be filled up by qualified persons in accordance with law; and
- (v) the report of such compliance shall be filed before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

19.10.2023

Index: Yes/No

NCC: Yes/No

**Note: Issue order copy by 02.11.2023.**

vjt



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To

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1. The Joint Commissioner,  
H.R. & C.E. Department – Kancheepuram,  
A.K. Thangavelar Street,  
Kanchipuram District.
2. The Assistant Commissioner,  
H.R. & C.E. Department – Kancheepuram,  
Collectorate Campus,  
Kancheepuram District.

Copy to

The Registrar (Judicial),  
Madras High Court,  
Chennai – 600 104.



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**P.D. AUDIKESAVALU, J.**

**vjt**

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