



W.P.(MD)No.7179 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.7179 of 2023

and

W.M.P.(MD).Nos.6777, 6778 & 6780 of 2023

1.Sankaranarayanan

2.S.Selvaraj

3.S.Arunachalam Avudaiappan

4.S.Muthuvel

5.S.Palanikumar

6.M.Sudalai

7.K.Murugan

... Petitioners

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thirunelveli.

2.The Executive Officer,
Arulmighu Kasi Viswanatha Swamu Temple,
Tenkasi, Tenkasi District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records pertaining to the impugned order bearing SE.Mu.Na.Ka.No.18458/2018/A2/dated 23.02.2019 on the file of the first respondent appointing the second respondent as a fit person to Sri Muppidathiamman Temple, Sundarapandiapuram, Tenkasi Taluk, Tenkasi District.

For Petitioner :Mr.VR.Shanmuganathan
For Respondents :Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition has been filed as against the order passed by the first respondent in his proceedings in SE.Mu.Na.Ka.No. 18458/2018/A2/dated 23.02.2019, appointing the second respondent as a Fit Person to Sri Muppidathiamman Temple.

2. The learned counsel for the petitioner would submit that the temple in question is a public temple being worshipped by the villagers living in an around the temple. The temple is administered by seven persons each belonging to the following Communities:



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1. Pillaimar Community
2. Thevar Community
3. Yadhava Community
4. Viswakarma Community
5. Senaithalaivar (Moopanar) Community
6. Vaniga VAisiyar (Chettiar) Community
7. Vanniyakula Shathiriyar (Padayachi) Community

The petitioners before this Court in the instant writ petition are the seven persons belonging to the aforesaid seven communities.

3. It is the case of the petitioners that the temple was being administered by the representatives of these seven communities giving room for no complaint. While so, on 23.02.2019, the first respondent had appointed the second respondent as a fit person to the temple invoking the powers under Section 47 (1) (c) of the HR & CE Act till the constitution of board of trustees. These orders were issued without any notice or enquiry with the Administrators of the temple. The petitioner therefore approached the respondents to recall the said order. While so, one Subbiah Pillai, one of the former trustee of the temple had filed W.P.(MD).No.18526 of 2020, challenging the order dated 23.02.2019 and subsequently, it has been



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withdrawn by the said Subbiah Pillai. The petitioners on the other hand, were informed that since the appointment of a fit person was already challenged before this Court, there is no necessity for a separate challenge and therefore they did not file any writ petition.

4. The learned counsel for the petitioners' would submit that the second respondent had not interfered with the administration of the temple. Therefore, the petitioner had not moved independently to challenge the appointment. Whiles, in the second week of February 2023, the second respondent came to the temple demanding that the petitioners to hand over the possession of the temple saying that the writ petition filed by the Subbiah Pillai had been withdrawn. The petitioners, thereafter made an enquiry and they had come to learn that the said Subbiah Pillai had withdrawn the writ petition with a liberty to file an appeal for framing a scheme to administer the temple. The very reason for withdrawing the writ petition is redundant in as much as the temple is already been administered by the representatives of the separate communities. Thereafter, on 18.02.2023 a meeting of all the members of the seven communities were



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held and seven members were elected and authorised to administer the temple. Thereafter, a suitable reply was also issued to the second respondent disputing their claim to appoint a fit person. However, on 27.10.2020, the second respondent had sent a letter pursuant to proceedings dated 23.02.2019 and nearly 18 months thereafter, stating that he has been appointed as a fit person to the temple. Once again, a notice was issued on 21.11.2020 by the second respondent calling upon the previous trustees to hand over the administration of the temple. These orders have all been passed without any notice to the petitioner. The petitioner would submit that they ought to have been given an opportunity of being heard before the fit person was appointed. Therefore, the petitioners have come forward with the writ petition.

5. Pursuant to the directions of this Court on 31.03.2023. The Executive Officer Mr.R.Murugan, Arulmigu Kasiviswanatha Swamy Temple, Tenkasi was present before this Court.



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6. The learned Special Government Pleader would submit that steps would be immediately initiated for appointing a committee to administer the temple in question.

7. Heard the learned counsel appeared on either side and perused the materials available on record.

8. A perusal of the impugned order would show that the order has been addressed to the administrators of the temple. In fact, a copy is marked to Nadaimurai Nirvagi, Arulmigu Muppidathi Amman Tirukovil, Sundarapandiyapuram Village, Tenkasi District. Therefore, even on the date of the impugned order, the committee was already in charge and it is also stated that till today the Executive Officer / Fit person has not taken over the administration.

9. This Court directs the first respondent to initiate steps for appointing a committee to administer the temple in question. The said exercise shall be completed within a period of one month from the date of



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receipt of a copy of this order. Considering that the management continues with the existing committee to whom the impugned order has also been addressed, they shall continue to administer the temple till the new committee is formed. However, no major decision shall be taken by them till the new committee is formed.

10. With the above directions, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.04.2023

NCC :Yes/No

Internet :Yes/No

Index :Yes/No

sbm

To

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2.The Executive Officer,
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