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W.P.(MD) Nos.15108 & 15109 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.(MD) Nos.15108 & 15109 of 2023

and

W.M.P.(MD).Nos.12716 & 12718 of 2023

Nagendran

...Petitioner
[In both WPs]

Vs.

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

2.The Inspector,
The Hindu Religious and Charitable Endowments Department,
Sivagangai.

...Respondents
[In both WPs]

PRAYER in W.P.No.15108 of 2023: - Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings dated 18.05.2023 in A. Thi. Mu. No.1418/2023/E1 of the first respondent and quash the same and consequently direct the first respondent to number the application filed by the petitioner and others for modification of the scheme framed in OA.No.120 of 1976 on the file of the first respondent filed under Section 64[5] of HR and CE Act and dispose of the same in accordance with law.

PRAYER in W.P.No.15109 of 2023: - Writ petition filed under Article 226



of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned notice dated 06.02.2023 and 14.06.2023 in Na.Ka.No.1532/2022/A1 of the first respondent and quash the same and consequently direct the first respondent to record the names of the trustees to Arulmighu Sree Siva Subramania Swami Thirukovil, Abiraman Village, Ramnad District, as furnished in the letter dated 11.07.2022 by the petitioner.

For Petitioner : M/s.V.R.Shanmuganathan

For Respondents : Mr.P.Subbaraj, Special Govt. Pleader
for respondents 1 and 2.

COMMON ORDER

The above Writ Petitions are filed for the following reliefs:-

(i) W.P.No.15018 of 2023 is filed to call for the records relating to the impugned proceedings dated 18.05.2023 in A. Thi. Mu. No. 1418/2023/E1 of the first respondent and quash the same and consequently direct the first respondent to number the application filed by the petitioner and others for modification of the scheme framed in OA.No.120 of 1976 on the file of the first respondent filed under Section 64[5] of HR and CE Act and dispose of the same in accordance with law.



(ii) W.P.No.15019 of 2023 is filed to call for the records relating to the impugned notice dated 06.02.2023 and 14.06.2023 in Na.Ka.No. 1532/2022/A1 of the first respondent and quash the same and consequently direct the first respondent to record the names of the trustees to Arulmighu Sree Siva Subramania Swami Thirukovil, Abiraman Village, Ramnad District, as furnished in the letter dated 11.07.2022 by the petitioner.

2. It is the case of the petitioner that the Arulmighu Sree Siva Subramania Swami Thirukovil, Abiraman Village, Ramnad District is a public temple administered by the residents of the village belonging to the Abiraman Ambalam Senguntha Mudhaliar Community. The petitioner would contend that the temple has been constructed on the lands purchased by the community people as early as in the year 1900 and from the year 1910 it is being administered by the community.

3. A scheme for the administration of the temple has also been settled under Section 61(1) of the HR & CE Act by the Deputy Commissioner of the HR & CE Department, Madurai, in O.A.No.120 of 1976. As per this



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scheme, the temple and its properties were to be administered from amongst the representatives chosen from the said community which shall be between 3 and 5 members. The elected trustees shall elect the Chairman within a month from their election and in case they fail to elect the Chairman then the competent authority shall nominate the Chairman. The Scheme further provides that the representatives would be chosen by the General Body of the Community within 7 days' notice in any Tamil Daily and that the meeting would be convened by the existing representatives as and when vacancies of the members arise.

4. The petitioner would submit that the community was working as per the scheme in administering the temple. The petitioner would submit that in the General Body held on 20.03.2019, five trustees were elected and on account of the vacancy that had arisen, the General Body of the community was held again on 03.07.2022 and five trustees were elected out of which one was elected as a Chairman. These details were forwarded to the 1st respondent on 11.07.2022, however, there has been no response from the 1st respondent. While so, by proceedings dated 27.05.2022, the 1st respondent had issued a notice inviting applications for appointment of trustees to the temple, which is totally contrary to the scheme framed for the



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temple. The petitioner would submit that when they had approached the office of the 1st respondent and apprised the 1st respondent about the scheme, they were informed that this was a routine notice and that there was nothing to worry. However, they were served with another notice dated 06.02.2023. In the 2nd notice, it was stated that the scheme had to be modified prescribing a period for the trustees, otherwise it would be contrary to the tenure of the Act. Therefore, the applicants have filed an application for modifying this scheme. This application came to be returned by the 1st respondent on 31.03.2023, stating that this scheme cannot be modified to enable people living elsewhere to be appointed as trustees, as it would run contrary to the scheme. The petitioner had represented the papers and once again the application was returned on 18.05.2023 and therefore, the petitioner is before this Court seeking to quash the proceeding returning the application on 18.05.2023.

5. Heard Mr. V.R.Shanmuganathan for the Writ Petitioner and Mr.P.Subbaraj, Special Government Pleader for the respondents.

6. Admittedly, a scheme had been framed for the temple vide the orders in O.A.No.120 of 1976, by the Deputy Commissioner of HR & CE



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Department, Madurai. The administration apparently was being run in tune with the terms of this Scheme. With an attempt to derail this Scheme, the 1st respondent has come forward with the notices which have now been called in question. In keeping with the contents of the notice dated 06.02.2023, the applicants have also filed an application for modifying this Scheme. It is rather surprising that the 1st respondent has been returning the said application without numbering it.

7. Therefore, since the modification has been filed in order to comply with the 1st respondent's notice dated 06.02.2023, the 1st respondent is directed to number the said application and dispose of the same within a period of eight weeks from the date of receipt of a copy of this Order. Till such time, no action shall be taken by the respondents to upset the administration of the temple which is running smoothly to date.

8. The above Writ Petitions are therefore allowed on the above terms. Consequently, the connected Miscellaneous Petitions are closed. No Costs.

26.06.2023

Index : Yes/No



W.P.(MD) Nos.15108 & 15109 of 2018

Internet : Yes/No
Neutral Citation : Yes/No
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To,

- 1.The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Sivagangai.
- 2.The Inspector,
The Hindu Religious and Charitable Endowments Department,
Sivagangai.

P.T. ASHA, J,

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