



WP(MD)No.16363 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.16363 of 2020

A.Parameshwaran

.. Petitioner

v.

1.The Commissioner,
O/o.Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungampakkam,
Chennai.

2.The Joint Commissioner,
O/o.Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar, Madurai.

3.The Assistant Commissioner,
O/o.Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

4.The Takkar / Executive Officer,
Arulmigu Sri Periya Muthalamman Koil,
Ayyampalayam,
Dindigul West Taluk,
Dindigul District.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus to appoint the Board of Trustees for Sri Arulmigu Peria Muthalamman Temple, Ayyampalayam, as per the scheme decree passed by the second respondent dated 16.10.1998 in O.A.No.5/94/C1 based on the petitioner's application dated 28.11.2019 within a stipulated time frame.

For Petitioner : Mr.N.S.Karthikeyan

For Respondents : Mr.P.Subburaj,
Special Government Pleader
for R.1 to R.3

Mr.A.K.Baskara Pandian
for R.4

ORDER

The petitioner has submitted an application u/s.49 of the Hindu Religious and Charitable Endowments Act to appoint him as a Board of Trustee, as per the scheme framed in the year 1998, before the Joint Commissioner of Hindu Religious and Charitable Endowments Department and has filed this writ petition that his application has not been considered.



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2.Learned Counsel for the fourth respondent submitted that the petitioner / religious institution is a non-listed institution and therefore, the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, is the competent authority to pass any order of appointing Board of Trustee as per the scheme.

3.Section 49 of the Hindu Religious and Charitable Endowments Act is extracted as under:-

“49. Power of Assistant Commissioner to appoint trustees and fit persons.—

(1) In the case of any religious institution which is not included in the list published under section 46 and is not a religious institution notified or deemed to have been notified under Chapter VI of this Act, the Assistant Commissioner shall have the same power to appoint trustees including fit persons or constitute a Board of Trustees and is vested in the Government, the Commissioner or the Joint / Deputy Commissioner in the case of a religious institution referred to in clause (a) of sub-section (1) or in sub-section (2), as the case may be, of section 47 :



Provided that the Board of Trustees constituted under this sub-section shall consist of three persons appointed by the Assistant Commissioner of whom one shall be member of the Scheduled Caste or Scheduled Tribe and another one shall be a woman.

Provided further that in addition to the trustees appointed by the Assistant Commissioner under this sub-section, the Government may nominate two persons who are qualified for appointment as trustees under this act as members of the said Board of Trustees, having regard to the following matters, namely:—

- (a) the interest of the public generally ;*
- (b) the income and the properties of the religious institution ;*
- (c) the number of worshippers and importance of the religious institution as a pilgrim center ; and*
- (d) such other matters as may be prescribed :*

Provided also that notwithstanding anything aforesaid in this sub-section, the Assistant Commissioner, may in the case of any such religious institution which has no hereditary trustee, appoint a single trustee.

(2) The provisions of sub-sections (3) and (4) of section 47 and of section 48 shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the



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Assistant Commissioner as they apply to the trustee or trustees appointed, or the Board of Trustees constituted, under section 47.”

4.In view of the above provision, this writ petition is disposed of with liberty to the petitioner to submit a fresh application u/s.49 of the Act before the third respondent / Assistant Commissioner within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the third respondent shall consider the same and pass appropriate orders, on merits and in accordance with law, within a further period of twelve weeks therefrom. No costs.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

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To

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B.PUGALENDHI, J.

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2.The Joint Commissioner,
O/o.Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Ellis Nagar, Madurai.

3.The Assistant Commissioner,
O/o.Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

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