



W.P.(MD).No.19990 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.19990 of 2023
and
W.M.P.(MD).No.16485 of 2023**

S.Natarajan

Vs.

... Petitioner

- 1.The Commissioner,
The Hindu Religious and Charitable Endowment,
Chennai – 34.
- 2.The Joint Commissioner,
The Hindu Religious and Charitable Endowment,
Office of Joint Commissioner,
Thanjavur.
- 3.The Assistant Commissioner,
The Hindu Religious and Charitable Endowment,
Office of the Assistant Commissioner,
Thanjavur.
- 4.The Executive Officer,
A/m.Durgai Amman Thirukovil,
Palathali,
Thanjavur District.

... Respondents



W.P.(MD).No.19990 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the third respondent in Ref.Se.Mu.Na.Ka.No.4711/2020/A6 dated .12.2020 as for as Serial Numbers 27, 28 and 29 of the impugned order in respect of A/m Maruthavaneswarar and A/m Karuppanna Swamy Thirukovil Neyveli Thenpathi, A/m Periya Ayyanar Thirukovil Neyveli Vadapathy and A/m Thandayuthapani Swamy Thirukovil Neyveli Vadapathy and quash the same as illegal, arbitrary and unenforceable.

For Petitioner : Mr.K.Vijaya Raghavan

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader.

ORDER

This Writ Petition is filed to quash the impugned order dated .12.2020, insofar as Serial Numbers 27, 28 and 29 of the impugned order are concerned. Wherein through the impugned order the respondents have appointed “Fit Person” to the said three temples.

2. According to the petitioner, the impugned order is passed without following Section 47 of the HR and CE Act. The respondents have not issued



W.P.(MD).No.19990 of 2023

any notice to the present Management. However, the Learned Special Government Pleader appearing for the respondents submitted that already there is an order vide proceedings dated 07.09.2015 directing the writ petitioner to file a petition under Section 64 (1) of the Act. Moreover, the said order is passed in consonance with the judgment passed in L.P.A. No.236 of 2001. Since the Temple is managed by 73 persons out of 12 karais, hence in the said judgment it has been held that there is no proper management of the Temple and the petitioner was directed to file petition under section 64(1). Inspite of the order passed in LPA, the petitioner had not filed any petition to frame any scheme.

3. However, the learned counsel appearing for the petitioner submitted that under Section 64(5) of the Act, either the parties in the Management shall file an application or suo motu the Joint Commissioner shall frame a scheme. Since the petitioner is in administration, moreover already there is a direction in the LPA judgment, therefore this Court is of the considered opinion the petitioner is bound to file a petition before the Joint Commissioner for framing scheme. The petitioner is directed to file an application under Section 64 of the Act for framing scheme within a period of two (2) months from the date of



W.P.(MD).No.19990 of 2023

receipt of the copy of this order. Thereafter, the respondents shall consider the same within a period of six (6) months therefrom.

4. It is made clear that until the scheme is framed, the petitioner and the 12 karais shall administer the Temple by appointing adhoc committee consisting of three members or five members. Once the scheme is framed, the administration shall be handed over by the adhoc committee as per the scheme.

5. As far as the appointment of “Fit Person” is concerned, since the said order of appointment was passed without issuing notice to the petitioner, then the same is liable to be quashed.

6. Moreover, already there are 12 karais managing the temple, hence the appointment of fit person is illegal. It has been held by the Hon’ble Division Bench in Suo Motu W.P.No.574 of 2015 batch vide judgment dated 07.06.2021 that where ever there are no managing trustees then the Department shall appoint “Fit Person” or “Executive Officer”. Hence the appointment of Fit Person is unwarranted, hence it is liable to be quashed and accordingly the impugned order as far as Serial No.27, 28 and 29 is quashed.



W.P.(MD).No.19990 of 2023

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

Note: Issue Order Copy on 04.10.2023.

To

- 1.The Commissioner,
The Hindu Religious and Charitable Endowment,
Chennai – 34.
- 2.The Joint Commissioner,
The Hindu Religious and Charitable Endowment,
Office of Joint Commissioner,
Thanjavur.
- 3.The Assistant Commissioner,
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W.P.(MD).No.19990 of 2023

S.SRIMATHY, J.

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W.P.(MD).No.19990 of 2023

26.09.2023