



W.P.(MD).No.23786 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.23786 of 2023

and

W.M.P.(MD).Nos.19962 & 19963 of 2023

K.Gnanasekaran

... Petitioner

Vs.

1.The Assistant Commissioner,
Hindu Religious Charitable
Endowment Department,
1st Cross Street,
A.D.Saminathapuram,
Near Nirmala Hospital,
Karur.

2.The Joint Commissioner,
HR & CE Department,
Regulated Market Complex,
1st Floor, Palladam Road,
Tiruppur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for records relating to the proceedings of the first respondent in Notice No. 2225-57/2023/A1, dated 04.07.2023 and Notice No.2225-56/2023/A1, dated 04.07.2023 and quash the same.



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W.P.(MD).No.23786 of 2023

For Petitioner : Mr.K.Govindarajan,
Senior Counsel,
For R.Murali

For Respondents : Mr.S.Kameswaran
Government Advocate

ORDER

This Writ Petition is filed for Writ of Certiorari, to quash the impugned order dated 04.07.2023.

2. Through the impugned order, the respondents have called for application for appointment of non-hereditary trustee.

3. The contention of the petitioner is that it is a village temple managed by the proper administration where the entire village is managing the temple without any disputes or law and order problem. Moreover, the temple is non listed temple.

4. The learned Government Advocate appearing for the respondents submitted that notice dated 04.07.2023 was issued, calling for application. Since none of them applied, the said notification is not in existence as of now. Hence, the subsequent notification dated 04.09.2023 has been issued. But the



W.P.(MD).No.23786 of 2023

petitioner had challenged the earlier notice dated 04.07.2023 alone and not the subsequent notice. Therefore, this Writ Petition would become infructuous.

6. After hearing rival submissions, this Court is of the considered opinion, non-hereditary trustee shall be appointed only when there is no proper management in the temple. The Honourable Division Bench of this Court has already categorically held so under clause 54 in *Suo Moto W.P.(MD).No. 574 of 2015* dated 07.06.2021. The relevant portion of this portion is extracted hereunder:

(54) The HR&CE Department shall file a report before this Court within a period of eight (8) weeks listing out the number of temples without Trustees, the duration of such vacancy, the particulars of the persons appointed as "Fit Person" and the steps taken by the Department to appoint trustees.

(55) If no hereditary trustees stake claim, then steps must be taken to appoint non-hereditary trustees. The non-hereditary trustees must be from the religious denomination, to which the temple belongs to without the political background.

7. Therefore, without issuing notice and also there is existing management, the respondents cannot call for any application for appointing non-hereditary trustee. Therefore, the impugned notice dated 04.07.2023 is quashed. Subsequently, the notice dated 04.09.2023 is also quashed.



W.P.(MD).No.23786 of 2023

8. The respondents shall recognize the existing administration and issue certain guidelines to the administration. The existing administration shall not be disturbed.

9. With these observations and directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Sml

To

1.The Assistant Commissioner,
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A.D.Saminathapuram,
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2.The Joint Commissioner,
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W.P.(MD).No.23786 of 2023

S.SRIMATHY, J.

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W.P.(MD).No.23786 of 2023

29.09.2023