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W.P. No. 1147 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1147 of 2024

and

W.M.P. Nos. 1200 and 1201 of 2024

K.Thenarasu

... Petitioner

-VS-

1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No. 119, Uthamar Gandhi Salai,
Nungambakkam High Road,
Nungambakkam,
Chennai – 600 034.
 2. The Joint Commissioner,
Office of the Hindu Religious & Charitable Endowments Department,
Erode – 1.
 3. The Fit Person/the Executive Officer,
Arulmighu Thaantoodriamman Thirukovil,
Moodachur, Gobichettipalayam Taluk,
Erode District.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the Second Respondent in order செ.மு.நட.ந.க.எண். 9787/2023/ஆ3 நாள் 12.12.2023.



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For Petitioner : Ms. C.A.Sharmila

For Respondents : Mr. N.R.R.Arun Natarajan,
Special Government Pleader

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ORDER

Heard Ms. C.A.Sharmila, Learned Counsel for the Petitioner and Mr. N.R.R.Arun Natarajan, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is common ground that the office of Trusteeship of Arulmighu Pallimariamman Temple, Vellankoil, Erode District (hereinafter referred to as 'the Temple' for short) is 'hereditary', which would mean that the filling up of the vacancies in that post would be governed by Section 54 of the HR & CE Act. The Second Respondent by Proceedings in Se.Mu.Nada.Na.Ka. No. 9787/2023/A3 dated 12.12.2023 held that on the demise of one V.K.Duraisamy, who was the Hereditary Trustee of that Temple, none of his legal representatives had obtained any order for treating them as having succeeded to the office of the Hereditary Trustee of the Temple, and as there was imminent need to carry out the authorized renovation works of the Temple, the Third Respondent was appointed as its Fit Person. According to the Petitioner, he is the son of one



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Kandasamy, who along with one V.K.Ravichandran, were functioning as the Hereditary Trustees of the Temple and he had made an application dated 07.11.2023 for treating him as the Hereditary Trustee of the Temple, being the next in the line of succession as the son of the said Kandasamy and V.K.Ravichandran, who died on 25.03.2012, but the aforesaid order has been passed without deciding his said application. In that backdrop, the Writ Petition has been filed challenging the said order.

3. It has been held in the decision of this Court in ***Prem Anand -vs- Commissioner, Hindu Religious and Charitable Endowments, Madras*** [(1990) 1 LW 144] that under Section 54 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the HR & CE Act' for short) when a permanent vacancy occurs in the Hereditary Trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office and there is no necessity, whatever, for the next hereditary trustee to make an application for being appointed to that post. However, there is an apparent dispute as to whether the said V.K.Duraisamy was the Hereditary Trustee of the Temple as claimed by the Second Respondent in the impugned order, or the said Kandasamy and V.K.Ravichandran were holding that office as contended by the Petitioner in this case. There is also nothing available to



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infer from the materials placed on record that the Petitioner had made any application dated 07.11.2023 to treat him as the Hereditary Trustee of the Temple on the demise of the previous Hereditary Trustee in accordance with Section 54(1) of the HR & CE Act. Viewed from that perspective, the Second Respondent cannot be faulted for the appointment of the Third Respondent as the Fit Person of the Temple in the exercise of powers under Section 54(3) of the HR & CE Act to carry out the authorized renovation works of the Temple as an interim measure till the Hereditary Trustee assumes charge of the affairs of the Temple. In such circumstances, though the impugned order does not warrant any interference, it would be incumbent upon the Second Respondent to expeditiously take a decision if any representation is made by the Petitioner to treat him as the Hereditary Trustee of the Temple.

4. In view of the foregoing discussion, this Court without expressing any view on the merits of the controversy, passes the following order:-

- (i) the Second Respondent shall immediately examine any application that may be made by the Petitioner for treating him as Hereditary Trustee of the Temple including ascertaining as to whether he would be entitled for such relief claimed;



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WEB (ii) (DP)

- if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 10 working days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, full opportunity of personal hearing to the Petitioner and all other persons concerned shall be afforded to explain their position in the enquiry conducted in that regard;
- (iv) it shall be ensured that there are atleast two effective hearings every month showing progress of the case;
- (v) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment; and
- (vi) depending upon the ultimate outcome of such action taken, the Second Respondent shall pass appropriate orders as to the necessity for the continuance or otherwise of the Fit Person appointed for the Temple in the impugned order.



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In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

18.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

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To

1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No. 119, Uthamar Gandhi Salai,
Nungambakkam High Road,
Nungambakkam,
Chennai – 600 034.
2. The Joint Commissioner,
Office of the Hindu Religious & Charitable Endowments Department,
Erode – 1.
3. The Fit Person/the Executive Officer,
Arulmighu Thaantoodriamman Thirukovil,
Moodachur, Gobichettipalayam Taluk,
Erode District.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600104.



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P.D. AUDIKESAVALU, J.

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