



W.P. No. 4318 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. 4318 of 2024

and

W.M.P. Nos. 4637, 4639 and 4640 of 2024

Perumal Babu

... Petitioner

-VS-

1. The Commissioner,
The Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai – 600 034.
2. The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Collectorate Building,
Kancheepuram – 631 501.
3. The Assistant Commissioner,
The Hindu Religious and Charitable Endowment,
Chengalpattu.
4. The Thakkar/Executive Officer,
Arulmigu Sakthi Vinayahar Thirukovil,
Chengalpet Town, Chengalpet Taluk and District.
5. Inspector,
The Hindu Religious and Charitable Endowment Department,
Madurantakam, Chengalpet District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the



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records pertaining to the impugned order passed by the Third Respondent dated 01.04.2023 in Se.Mu.Na.Ka. No..../2023/A3/dated 01.04.2023 by appointed a fit person (Thakkar/Executive Officer) without giving notice to the Petitioner is illegal and quash the same and consequently direct the Third Respondent to consider the Petitioner's representation dated 29.05.2023 and appoint the Petitioner as hereditary trustee of Arulmigu Paramapuriswarar and Dhrowpathiamman Temple, Palliagaram Village Maduranthakam Taluk, Chengalpet District.

For Petitioner : Mr. S.Sathyaraj

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

ORDER

Heard Mr. S.Sathyaraj, 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 one P.V.Dhayalan was the Hereditary Trustee of Arulmighu Paramapuriswarar Temple, Palliagaram Village, Maduranthakam Taluk, Chengalpattu District (hereinafter referred to as 'the Temple' for short) and that he died on 05.05.2018. The Third Respondent by Proceedings in Se.Mu.Na.Ka. No.____/2023/A3 dated 01.04.2023 held that since none of the



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legal representatives of the said P.V.Dhayalan had obtained any order for treating them as having succeeded to the office of the Hereditary Trustee of the Temple, and there was imminent need to protect the properties of the Temple, the Fourth Respondent was appointed as the Fit Person of the Temple. According to the Petitioner, he has made an application dated 29.05.2023 for treating him as the Hereditary Trustee of the Temple, being the next in the line of succession, as the son of the said P.V.Dhayalan, but the aforesaid order has been passed without any notice to him. In that backdrop, the Writ Petition has been filed challenging that order and for consequential direction to treat him as the Hereditary Trustee of the Temple.

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 nothing available to infer from the materials placed on record that either the



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Petitioner or any other person had been functioning as the Hereditary Trustee of the Temple on the demise of the said P.V.Dhayalan in accordance with Section 54(1) of the HR & CE Act. It is also evident that the application of the Petitioner for treating him as the Hereditary Trustee of the Temple was made on 29.05.2023 only after the Third Respondent appointed the Fourth Respondent as the Fit Person of the Temple on 01.04.2023 by the impugned order. Viewed from that perspective, the Third Respondent cannot be faulted for the appointment of the Fourth Respondent as the Fit Person of the Temple in the exercise of Section 54(3) of the HR & CE Act to protect its properties till the Hereditary Trustee assumes charge of the affairs of the Temple. In such circumstances, though the impugned order does not warrant any interference, but it would be incumbent upon the Third Respondent to expeditiously take a decision on the representation dated 29.05.2023 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 Third Respondent shall immediately examine the pending application dated 29.05.2023 made by the Petitioner including ascertaining as to whether he would be entitled for such relief claimed;



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(ii) if it is found that any other details or supporting documents is necessary,

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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;

(vi) depending upon the ultimate outcome of such action taken, the Third 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; and

(vii) the report of such compliance shall be filed before the Registrar (Judicial) of the Court.



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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.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

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To

1. The Commissioner,
The Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai – 600 034.
2. The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Collectorate Building,
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Madurantakam, Chengalpet District.

Copy to

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



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P.D. AUDIKESAVALU, J.

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