



WEB COPY



W.A.No.1021 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.1021 of 2022
and
C.M.P.Nos.6517 of 2022, 27968 & 27969 of 2023

1. A.Kannan
2. S.Thirumurugan
3. S.Panchatcharam
4. K.Murugavel
5. D.Usharani

... Appellants/Petitioners

-VS-

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
The Hindu Religious and Charitable Endowments Department,
Secretariat, Chennai-600 009.
2. The Commissioner,
The Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-600 034.
3. The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Villupuram,
Villupuram District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 25.01.2022 made in W.P.No.834 of 2022 by this Court and thereby allow the Writ Petition.



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W.A.No.10 of 2022

For Appellants : Mrs.Narmadha Sampath

For Respondents : Mr.NRR.Arun Natarajan
Spl.Govt.Pleader (HR&CE)

J U D G M E N T

(By D.Krishnakumar,J.)

This Writ Appeal has been filed, challenging the order dated 25.01.2022 of the learned Single Judge in W.P.No.834 of 2022, in which, the request of the Writ Petitioners seeking to include their names for appointment to the posts of Trustees of A/3. Vellai Vinayagar and Balasubramaniam Thirukovil, Thirukovilur Village, Kallakurichi District was negatived.

2. According to the Writ Petitioners/Appellants herein, Vellai Vinayagar and Balasubramaniam Temple at Kallakurichi District were listed temples under the Tamil Nadu HR&CE Act, 1950 under Section 64/1, which is classified as community temple, belonging to Viswakarma community. Due to mismanagement of the former Trustees, an election was duly conducted in which among 12 applicants, 5 new members were selected, i.e., 4 male members and 1 female for the post of Trusteeship. Subsequently, a Writ Petition in W.P.No.4647 of 2018 was filed by the members, who



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were not selected, on the ground that the selected do not belong to Viswakarma community and the said Writ Petition was dismissed as withdrawn on 13.09.2021.

Though their names had long been forwarded to the 1st respondent, there was no final order passed by the Government, which necessitated the Writ Petitioners to file a petition for a suitable direction and the said Writ Petition was disposed of by the learned Single Judge, holding that the tenure of the Trustees itself got expired and in the absence of any notification, no cause of action will arise for the Writ Petitioners to approach this Court.

3. It is submitted by the appellants that the 3rd respondent did not cancel their appointment and he failed to perform the statutory obligations. Learned Single Judge failed to note that the selected members were not allowed to take charge of Trusteeship and therefore, the question of expiry of the tenure will not arise at all. It is further submitted that there was no fault on the side of the appellants and hence, the expiry period of two years cannot be attributed to the appellants.

4. Per contra, learned Special Government Pleader contended that the tenure of the Trustees would get expired from the date on which the Chairman assumes office of the Temple. However, it is fairly stated that in the present case on hand, the



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Chairman has not assumed office due to the reason that the Government had not passed any order in respect of appointment of Trustees.

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5. It is seen from the counter affidavit filed by the 3rd respondent dated 06.06.2022 that three persons (2 male members and 1 female member) shall be appointed by the Joint Commissioner, HR&CE Department vide Proc.Rc.No.7059/2017/C2 dated 04.12.2017 and two persons were recommended to the Government for nomination through Commissioner in Rc.No.4164/2018/A1 dated 16.02.2018.

6. In view of the afore-stated position and also the fairness shown by the learned Special Government Pleader appearing for the respondents, we are of the view that the order of the learned Single Judge is liable to be set aside.

7. Accordingly, the Writ Appeal is allowed and the order dated 25.01.2022 of the learned Single Judge in W.P.No.834 of 2022 is hereby set aside. The Government, namely, 1st respondent herein is directed to consider the proposal dated 16.02.2018, recommending to nominate two persons in the light of the scheme under Section 64(1) of the Tamil Nadu HR&CE Act, 1959 and take a decision in respect of their



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appointment, subject to their eligibility, within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected Miscellaneous

Petitions are closed.

[D.K.K., J.,]

[K.B., J]

08.07.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

1. The Secretary to Government,
State of Tamil Nadu,
The Hindu Religious and Charitable Endowments Department,
Secretariat, Chennai-600 009.
2. The Commissioner,
The Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-600 034.
3. The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Villupuram,
Villupuram District.



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W.A.No.101 of 2022

D.KRISHNAKUMAR,J.,
AND
K.KUMARESH BABU,J.,
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08.07.2024