



W.P.No.18871 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.18871 of 2020
and WMP.No.23461 of 2020

T.Shanmugasundaram

..... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore – 18.

..... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.4187-1/2017.B4, dated 18.11.2019 and quash the same and consequently directing the respondents to appoint the petitioner as one of the



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Trustee for the temple Arulmigu Nageswarar Kulavilakku Amman Temple,
Nanjaikalamangalam, Modakurichi Taluk, Erode District.

For Petitioner : Mr.C.Prakasam
For Respondents :Ms.S.Ravichandran
Additional Government Pleader
(HR and CE)

ORDER

The writ petition is filed challenging the order passed by the second respondent rejecting his application for appointment of Non Hereditary Trustee to a temple called Arulmighu Nageswarar Kulavilakku Amman Temple, Nanjaikalamangalam, Modakurichi Taluk, Erode District.

2. According to the petitioner, he submitted an application for appointment as Non Hereditary Trustee of the above mentioned temple. The application of the petitioner was rejected by the impugned order mainly on the ground that the criminal case was pending investigation in Crime No.117 of 2011 on the file of the



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Malaiyampalayam Police Station.

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3. The learned counsel appearing for the petitioner by taking this Court to Section 26 of HR and CE Act submitted that the pendency of FIR is not a disqualification for any person applying for the trusteeship of the temple and hence he seeks allowing of the writ petitions by setting aside the impugned order.

4. The learned Additional Government Pleader appearing for the respondents would submit that during police verification it came to the knowledge of the respondent that a criminal case was pending investigation on the file of the Malaiyampalayam Police Station in Crime No.117 of 2011 under Sections 147, 448, 294(b), 427, 506(ii), 379 of IPC and hence, the application of the petitioner was rejected. Further it is also stated by the learned Additional Government Pleader that the petitioner failed to submit any explanation to the show cause notice issued to him.



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5. A reading of the impugned order would suggest that the application of the petitioner for trusteeship was rejected only on the ground that the FIR was pending investigation. However, Section 26 of HR and CE Act, mentions various grounds, on which a person is disqualified to hold the post.

6. A close reading of Section would suggest pendency of investigation in FIR stage is not a disqualification. Only in cases where a person concerned is sentenced by the Criminal Court for an offence involving moral delinquency and such sentence not having been reversed or the offence pardoned, he will be disqualified.

7. In the case on hand, admittedly, as per the impugned order only the criminal case is pending investigation. Therefore, the reason given in the impugned order is untenable in law and consequently, the impugned order is set aside.



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8. The learned counsel for the petitioner further submits that in the above mentioned Crime No.117 of 2011, final report was filed against the petitioner and the same was taken on file in C.C.No.83 of 2012, which ended in acquittal of the petitioner. The order of acquittal passed by the District Munsif cum Judicial Magistrate, Kodumudi in C.C. No.83 of 2012, dated 22.10.2018 is also included in the typed set of papers.

9. A perusal of the same would indicate that the petitioner was acquitted. In such view of the matter, the impugned order passed by the second respondent on the ground the criminal investigation is pending against the petitioner is not sustainable in law.

10. Accordingly, this writ petition is allowed by quashing the impugned order. It is made clear that the petitioner is entitled to apply for appointment of Non Hereditary Trusteeship of the temple in



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future.

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11. If the petitioner makes an application for appointment of Non Hereditary Trusteeship of the temple, his application shall be considered in accordance with law, if he is not otherwise disqualified.

12. The learned Additional Government Pleader would submit that the process of appointment of Non Hereditary Trustee for the above said temple already commenced. Therefore, the petitioner is permitted to file his application before the second respondent within a period of one week from the date of receipt of copy of this order.

13. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No

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To

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S.SOUNTHAR, J.

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