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W.P.No.31685 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31685 of 2018

And

W.M.P.Nos.36926 and 36927 of 2018

Arulmigu Mariamman Temple
Represented by its
Chairman of Board of Hereditary Trustee
Mr.C.R.Thirupathi Gounder

... Petitioner

Vs.

1.The Commissioner
HR & CE Department
Uthamar Gandhi Salai
Nungambakkam
Chennai – 600 034.

2.The Joint Commissioner
HR & CE Department
Salem.

3.The Assistant Commissioner
HR & CE Department
Dharmapuri.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the order passed by the second respondent in Na.Ka.No.5084/2009/A2 dated 03.10.2018 and quash the same.



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For Petitioner : Mr.C.Samivel

For Respondents : Mr.S.Ravichandran

Additional

Government

Pleader(HR&CE)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records relating to the order passed by the second respondent in Na.Ka.No.5084/2009/A2 dated 03.10.2018 and to quash the same.

2.The learned counsel appearing for the petitioner submitted that the petitioner is the Chairman of Board of Hereditary Trustee of Arulmigu Mariamman Temple, Avadhanapatti Village, Krishnagiri. The Hereditary Trustees and Poojaris were performing all the poojas and yearly festivals of the said Temple. Whiles, the respondents 1 and 2 were taking steps to appoint Executive Officer and hence the petitioner filed W.P.No.27863 of 2018 for Mandamus forbearing the respondents 1 and 2 to appoint Executive Officer, however, vide order dated 22.11.2018 the said writ petition was dismissed as infructuous by observing that the second respondent vide proceedings dated 03.10.2018 appointed one G.Amuthasurabi as the



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Executive Officer.

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3.The learned counsel appearing for the petitioner further submitted that challenging the proceedings of the second respondent dated 03.10.2018 appointing Executive Officer for the subject Temple under Section 45(1) of the HR&CE Act, this writ petition was filed. This writ petition was disposed of on 25.01.2019 with an observation that subject to the orders to be passed by the second respondent on the representation dated 14.09.2018, it is open to the petitioner to take any action in the manner known to law. Aggrieved by the same, the petitioner filed W.A.No.1511 of 2021 before the Hon'ble Division Bench of this Court and the Hon'ble Division Bench of this Court set aside the order of this Court dated 25.01.2019 and this writ petition was restored to file.

4.The learned Additional Government Pleader(HR&CE) appearing for the respondents submitted that as against the order passed by the second respondent under Section 45(1) of the HR&CE Act, there is effective remedy available under Section 21 A of the HR&CE Act and without exhausting the said remedy filing writ petition



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is not sustainable one and further submitted that in the absence of any interim order, the Executive Officer is functioning as on date.

5.Heard the submissions made by the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader (HR&CE) appearing for the respondents and perused the materials available on record.

6.The petitioner claims to be the Chairman of Board of Hereditary Trustee of Arulmigu Mariamman Temple, Avadhanapatti Village, Krishnagiri. Perusal of records reveal that election for electing the Chairman of the Board of Hereditary Trustees of the subject Temple was not conducted from the year 2012 and hence the Hereditary Trustees of the Temple passed a Resolution dated 30.07.2018, electing the petitioner as the Chairman of the Board of Hereditary Trustees and sent the said Resolution to the second respondent for approval and since there was no response, the petitioner made representation dated 14.09.2018 to the second respondent seeking to approve the Resolution dated 30.07.2018 and since the said representation was not considered, the petitioner filed W.P.No.30479 of 2018 seeking direction to the second respondent to



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approve the Resolution dated 30.07.2018.

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7.W.P.No.30479 of 2018 was disposed of by this Court on 25.01.2019 with direction to the second respondent to dispose of the petitioner's representation dated 14.09.2018. Since the order of this Court dated 25.01.2019 was not complied, the petitioner filed contempt petition before this Court, pursuant to which, the second respondent passed an interim order on 11.11.2019 stating that the Resolution dated 30.07.2018 cannot be approved because the said resolution was not passed before the Officials like Thakkar and Executive Officers and challenging the order dated 11.11.2019, the petitioner filed W.P.No.34161 of 2019. When W.P.No.34161 of 2019 came up for admission before this Court on 09.12.2019, the second respondent produced the final order dated 03.12.2019 rejecting the request of the petitioner and hence, this Court disposed of the said writ petition with liberty to the petitioner to challenge the final order dated 03.12.2019.

8. Thereafter, the petitioner filed appeal under Section 26(5) of the TNHRCE Act in A.P.No.19 of 2021 before the first respondent



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challenging the order dated 03.12.2019 passed by the second respondent, whereby, the second respondent rejected the election of

the petitioner as Chairman of Board of Trustees and disqualified the petitioner under Section 26 (g) and (h) of the Act. The first respondent passed order dated 27.04.2022, confirming the rejection of the resolution of the Board of Trustees and set aside the order of disqualification passed by the second respondent against the petitioner. The first respondent further directed the second respondent to initiate proceedings under Section 26 of the Act, if records available and to pass orders within a period of two months from the date of receipt of a copy of the order, after issuing show cause notice to the petitioner containing the grounds for disqualification and affording opportunity of being heard to the petitioner and further directed to conduct election to elect Chairman to the Board of Trustees within a period of one month thereafter.

9.In view of the order passed by the first respondent in in A.P.No.19 of 2021, nothing survives for adjudication in this writ petition. If at all the petitioner is aggrieved, the petitioner has to file appeal under Section 21 A of the HR&CE Act before the



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Commissioner. The period during which this writ petition was pending before this Court is excluded for the purpose of limitation so as to enable the petitioner to file appeal. If any appeal is filed by the petitioner, the authority shall consider the petitioner's grievance including the subsequent orders and pass appropriate orders, as early as possible.

10.The writ petition is disposed of with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

09.09.2024

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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HR & CE Department
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Nungambakkam
Chennai – 600 034.

2.The Joint Commissioner
HR & CE Department
Salem.

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