



W.P.(MD)No.2937 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.2937 of 2024

S.Periasamy

... Petitioner

versus

1. The Commissioner,
HR&CE Department,
Chennai.

2. The Joint Commissioner,
HR&CE Department,
Tirunelveli.

3. S.Esakki Pandian

4. Nivek

5. M.Savarivasan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Se.Mu.Na.Ka.No.3671/22/A2 dated 05.01.2024 and



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quash the same and further direct the 2nd respondent to select the Managing Trustee of the Temple, namely, Arulmigu Pasunkili Ayyan Sastha Temple, Gopalamudram, Tirunelveli District, as per scheme was framed in O.A.No.1 of 1999 on the file of the respondent and from the list of persons selected in the general body meeting of Patharaipangu Thevar Uravinmurai Sangam dated 26.09.2021.

For Petitioner : Mr.T.Selvam

For R1 and R2 : Mr.P.Subba Raj,
Special Government Pleader

For R4 and R5 : Ms.C.Geetha

ORDER

The petitioner claims that he is the erstwhile Managing Trustee of Arulmighu Pasunkili Ayyan Sastha Temple, Gopalamudram, Tirunelveli District. He has filed this writ petition challenging the order passed by the second respondent/Joint Commissioner, HR&CE, Tirunelveli dated 05.01.2024. By the order impugned in this writ petition, the second respondent has appointed (i) Esakki Pandian, S/o.Sivasubramanian, (ii) Nivek, S/o.Esakki and (iii) Savarivasan, S/o.Madasamy, as Trustees of Arulmighu Pasunkili Ayyan Sastha



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Temple, Gopalasamudram, Tirunelveli District. According to the petitioner, the appointment of above Trustees is not in accordance with the Scheme framed in O.A.No.1 of 1999

2. The learned counsel appearing for the petitioner submits that a Scheme was framed for this Temple in the year 2006 in O.A.No.1 of 1999. As per the Scheme, the Temple has to be administered by Non-hereditary Trustees not less than three (3) members and not more than five (5) members selected from the community of Patharaipangu Thevar, living in Gopalasamudram Village, subject to the qualification mentioned under Section 26 of the Act 22 /59. He further submits that the persons, who are identifying as Trustees, are not selected by Patharaipangu Thevar Uravinmurai Sangam. According to him, every five years, the General Body of Patharaipangu Thevar Uravinmurai Sangam would be constituted and the Trustees of the Temple would be identified by the General Body. This year, the Pathaaraipangu Thevar Uravinmurai Sangam has convened a General Body Meeting and



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selected three persons, namely, (i) Periyasamy, (ii) Murugan and (iii) Sankar and also recommended them for appointment of Non-hereditary Trustee of the temple. However, the second respondent, without considering the same, has passed the impugned order, appointing Esakki Pandian, Nivek and Savarivasan as Trustees of the above Temple.

3. The learned counsel appearing for the petitioner submits that the income of the Temple is more than Rs.18 lakhs and therefore, this Temple will not come under the category of Section 46 of HR&CE Act and therefore, it has to be treated only as listed Temple and any appointment has to be made only by the Commissioner and not by the Joint Commissioner. On this ground, the petitioner claims that the impugned order is passed without any authority.



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4. The learned counsel for the petitioner further submits that a revision petition in R.P.No.199 of 2023 is pending before the Commissioner of HR&CE Department, with regard to the appointment of previous Trustees. Pending the revision petition, this impugned order has been passed identifying the above three persons as Trustees for the Temple. Therefore, the impugned order is liable to be interfered with.

5. Mr.P.Subba Raj, learned Special Government Pleader, who takes notice for the respondents 1 and 2, submits that the Trustees have been appointed as per the Scheme and identified only from Patharaipangu Thevar Community and therefore, there is no violation of condition of the Scheme. He further submits that the Scheme does not permit anybody to convene a General Body Meeting to identify the members as Trustees from the Community and therefore, the first contention of the petitioner is not correct. He further submits that this Temple is a non-listed Temple, which comes under the category of



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Section 46(i) of the HR&CE Act and therefore, the second contention of the petitioner is also not correct. He further submits that in the revision petition in R.P.No.199 of 2023, there is no interim order preventing the second respondent/the Joint Commissioner of HR&CE Department, Tirunelveli, from appointing the trustees.

6. Ms.C.Geetha, learned counsel, who takes notice for the respondents 4 and 5, submits that the second respondent has passed the impugned order as per the Scheme of the Temple and the new trustees have been identified from Patharaipangu Thevar Community. She further submits that the writ petitioner and his family members were managing the temple for the past 36 years and preventing the villagers from offering Non-veg padayal and therefore, some village people have approached the 2nd respondent for appointment of fresh trustees. After a detailed enquiry by providing an opportunity of hearing to Patharaipangu Thevar Uravinmurai Sangam, the second respondent has passed the impugned order appointing the above persons as Trustees.



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She further submits that the petitioner was also indulged in illegal mining activities in the temple, for which, a complaint has been lodged by the 4th respondent. Angered over the same, the petitioner has filed this writ petition.

7. This Court considered the rival submissions and the materials placed on record.

8. The grievance of the petitioner is that the second respondent, by the order impugned in this writ petition, has appointed one Esakki Pandian, S/o.Sivasubramanian, Nivek, S/o.Esakki and Savarivasan, S/o.Madasamy, as Trustees of Arulmighu Pasunkili Ayyan Sastha Temple, Gopalamudram, Tirunelveli District. According to the petitioner, the appointment of above Trustees is against the Scheme framed in O.A.No.1 of 1999.



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9. The Scheme framed in O.A.No.1 of 1999 is extracted as under:

“This temple and their properties shall be administered by the non-hereditary trustees not less than three and not more than five selected from the community of Patharai Panku Thevanars living in Gopalamudram Village subject to the qualification mentioned under Section 26 of the Act 22/59.”

10. The learned Special Government Pleader appearing for the respondents 1 and 2 submits that the above persons have been appointed as Trustees only as per the Scheme and that too from Patharaipangu Thevar Community. Therefore, this Court is not inclined to entertain this writ petition.

11. However, considering the fact that R.P.No.199 of 2023 is pending before the first respondent/the Commissioner of HR&CE Department, Chennai, with regard to the appointment of previous



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Trustees, this writ petition is disposed of with a direction to the first respondent/the Commissioner of HR&CE Department, Chennai, to dispose of R.P.No.199 of 2023, within a period of six months from the date of receipt of a copy of this order. No costs.

12.02.2024

NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.
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To

1. The Commissioner,
HR&CE Department,
Chennai.
2. The Joint Commissioner,
HR&CE Department,
Tirunelveli.



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B.PUGALENDHI, J.

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