



W.P.(MD) Nos.3751 and 4645 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD) Nos.3751 and 4645 of 2024

and

W.M.P.Nos.4479 and 4482 of 2024

Ganapathy Sundaram Pillai

... Petitioner
in W.P(MD).No.3751 of 2024

M.Kasi Viswanathan

... Petitioner
in W.P(MD).No.4645 of 2024

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli.
- 3.The Fit Person / Executive Officer,
Arulmigu Nellaiyappar Arultharum Ghandhimadhi Ammam Thirukovil,
Tirunelveli Town,
Tirunelveli.

... Respondents
in W.P(MD).No.3751 of 2024



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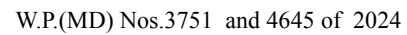
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1. The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Tirunelveli District.
 2. The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Tirunelveli District.
 3. The Inspector,
Tamil Nadu Hindu Religious and Charitable Endowments Board,
Tirunelveli West Zone,
Tirunelveli.
 4. The Executive Officer,
Arulmigu Nellaiyappar Arultharum Ghandhimadhi Ammam,
Tirunelveli Town,
Tirunelveli.
 5. Ganapathy Sundaram Pillai
- ... Respondents
in W.P(MD).No.4645 of 2024

Common Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned order in the proceedings in S.A.Mu.Na.Ka.Mo. 6041/2023/A2 dated 05.02.2024 on the file of the second respondent and quash the same.

in W.P(MD).No.3751 of 2024

For Petitioner	: Mr.J.Jeyakumaran
For R1 & R2	: Mr.Subba Raj Special Government Pleader
For R3	: Mr.S.Madhavan



For Petitioner : Mr.D.Nallathambi
For R1 to R3 : Mr.Subba Raj
Special Government Pleader
For R4 : Mr.S.Madhavan

The petitioners have filed these writ petitions as against the order passed by the second respondent in S.A.Mu.Na.Ka.Mo. 6041/2023/A2 dated 05.02.2024.

2. The learned counsel for the petitioners submits that without passing an order under Section 3 of the HR & CE Act, the respondents are not entitled to appoint a fit person. He has also relied upon the earlier order passed by the Hon'ble Division Bench for the very same issue in W.A.No.47 of 2001 dated 01.11.2004. For the very Same Sathiram, a fit person was appointed in the year 1993 and the same was challenged by way of writ petition and the Hon'ble Division Bench while deciding the



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issue in W.A.No.47 of 2001 has stated that the respondents are not supposed to appoint the fit person without initiating the proceedings under Section 3 of the HR & CE Act and the relevant portion is extracted as under :

" ... 8. Under the facts and circumstances of the case, we incline to pass the following order : Before proceeding further on the impugned proceedings dated 21.11.1993, the first respondent shall inquire into the charges framed thereunder and if the impugned Chatram has not been brought under the purview of the Act till date, issue a notice and pass appropriate orders under Section 3 of the Act and immediately thereafter, shall continue with the impugned proceedings dated 21.11.1993, after getting explanation from the petitioner, within thirty days from the date of passing orders in the proceedings initiated under Section 3 of the Act and till then, the appointment of the fit person shall stand stayed. However the appellant/writ petitioner shall not create any encumbrance in any manner to the properties of the impugned Chatram and shall maintain account with regard to the same, which shall be scrutinised subject to the finality in the proceedings initiated under Section 3 of the Act. The writ petition is disposed of accordingly no costs."



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3. It is relevant to extract the provision under Section 3 of the HR & CE Act :

.... 3. *Power to extend Act to Charitable Endowments. (1) Where the Government have reason to believe that any Hindu or Jain Public Charitable endowment is being mismanaged, they may direct the Commissioner to inquire, or to cause an inquiry to be made by any officer authorized by him in this behalf, into the affairs of such charitable endowment and to report to them whether, in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this act and of any rules made thereunder.*

4. Admittedly, HR & CE department has not issued notification under Section 3 of the HR & CE Act and in the absence of the order under Section 3 of the HR & CE Act, the respondents are not entitled to take a decision in appointing the fit person.

5. In view of the above, these writ petitions are allowed and the impugned order, appointing the fit person is set aside.



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6. The petitioners in both writ petitions claims that they are the Managing Trustees of the Thiruvarul Pettra 63 Nayanmargal Gurupoojai, Annadhana Sathiram. In view of the dispute between the petitioners, the Trust has already been closed and they are not performing the object of the trust and therefore, this Court appoints one Mr.V.Chandrasekaran as the Managing Trustee of the trust for administering the Trust. If there is any issue, the newly appointed Managing Trustee shall take decision on the same, as per law. No Costs. Consequently, the connected miscellaneous petitions are closed.

01.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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B.PUGALENDHI,J

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