



W.P.(MD) No.13221 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.13221 of 2024
and
W.M.P.(MD)Nos.11704 & 11706 of 2024**

1.P.Alagappan Pooasari,

2 P.Sadhasivam Pooasari.

... Petitioners

Vs

- 1 The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai - 34.
- 2 The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.
- 3 The Executive Officer,
Arulmigu Jenagai Mariyamman Temple,
Sholavandan, Vadipatti Taluk,
Madurai District.
(Fit Person / Thakkar, Arulmigu
Sri Ayyanar Kovil)



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4 Pitchai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings vide Na.Ka.No.9012/2023/E2 dated 30.05.2024 and to quash the same as illegal and arbitrary.

For petitioner : Mr.S.Ramanathan

For respondents : Mr.P.Subbaraj
Special Government Pleader for R1 & R2
Mr.V.R.Shanmuganathan
Standing Counsel for R3
Mr.N.Karthick Kannan for R4

ORDER

Heard learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 and 2, learned Standing Counsel for the third respondent and learned counsel for the fourth respondent.

2. The petitioner has challenged the impugned order dated 30.05.2024 passed by the second respondent in his proceedings bearing reference Na.Ka.No. 9012/2023/E2.

3. By the impugned order, the third respondent was appointed as a fit



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person under Section 54(3) of TNHR&CE Act, 1959.

4. It is the case of the petitioner that the petitioner's father was declared as a Hereditary Trustee by the Joint Commissioner in his proceedings dated 16.11.1971 in O.A.No.17 of 1971.

5. It is further submitted that the petitioner's father, who was recognized as a Hereditary Trustee, died in the year 2018 and therefore, the petitioner and his brother have filed an application for recognizing them as Hereditary Trustees on 07.08.2023.

6. It is submitted that as per the decision of the Hon'ble Division Bench of this Court in the case of **Prem Anand vs. Commissioner, H.R.&C.E** reported in **1990 (1) LW 144**, in which, has been held as follows:

“A fit person had been appointed earlier when the proceedings were pending as against the petitioner’s father. The petitioner had applied to the first respondent that he being the person entitled to succeed his father as hereditary trustee, should be appointed and no fit person should be appointed in that place. The first respondent passed an order on 15.03.1989 to the effect that the appointment of fit person was only a temporary measure which would not impinge on the right of the petitioner to succeed when the permanent vacancy arises under S.54(1)



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of the Act. The petitioner was, therefore, requested to wait till the enquiry against his father was over. After the enquiry was over and the petitioner's father was removed by order of the first respondent on 24.07.1989, the petitioner sought for a direction from the first respondent to the fit person to hand over charge to the petitioner herein as the next hereditary trustee. The petitioner received an order from the first respondent on 22.08.1999 and he should apply to the Deputy Commissioner for appropriate orders under S.54(1) of the Act as the Deputy Commissioner is the competent Authority. The petitioner sent a reply through his advocate on 1.9.1989 inviting the attention of the first respondent to the position that there is no necessity for making any application for the succeeding hereditary trustee and that succession is automatic as recognised by the provisions of the Act. According to the petitioner, there is no reply so far to the said communication. Under S.54 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, when a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office. There is no necessity, whatever, for the next hereditary trustee to make an application for being appointed under the Act."

7. It is, therefore, submitted that the petitioner is really not required to file an application for recognizing himself as a Hereditary Trustee as the office of Trustee, where there is a Hereditary Trustee, survives.

8. That apart, it is submitted that an application in O.A.No.5/2001 was also filed by few persons to frame scheme under Section 64(1) of the TNHR&CE Act, 1959 and it came to be dismissed on 05.07.2018.



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9. That apart, it is submitted that the petitioner's application dated 07.08.2023 is listed for hearing on 26.06.2024 and therefore, there was no hurry in passing the impugned order appointing the third respondent as a fit person of the temple.

10. It is submitted that despite the same, the second respondent has passed the impugned order appointing the third respondent as a fit person, which is contrary to the decision of the Court in **Prem Anand's** case (cited supra), which has been following in numerous cases.

11. In this connection, a reference has also made to another decision of this Court in the case of **N.Muthuvali vs. The Joint Commissioner, HR&CE Administrative Department** reported in **(2002) 5 CTC 31**. Hence, he prays for allow this Writ Petition.

12. Defending the stand of the petitioner, the learned Special Government Pleader for the respondents 1 and 2 would submit that the private respondent/fifth respondent herein had filed W.P.(MD)No.19261 of 2020, which came to be



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dismissed on 07.09.2023, pursuant to which, the second respondent has considered the demand of the villagers for conducting temple festival. Therefore, the interim order has been passed by the second respondent by appointing the third respondent as a fit person. It is only a temporary arrangement to facilitate the temple festival viz., Puravi Edupu and Pongal, which have not been conducted for the last 30 years and which is scheduled to be conducted during the month of Aani and Avani.

13. That apart, it is submitted that the petitioner as also his father viz., late. Pichan Poosari has not conducted the temple festival.

14. Considering the submissions made by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2, this Court is of the view that the interim arrangement need not be disturbed as there is an overwhelming demand for the aforesaid temple festival viz, Puravi Edupu and Pongal.

15. However, the official respondents/respondents 1 and 2 are directed to



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dispose of the petitioner's representation for recognizing the petitioner and his brother as Hereditary Trustees, pursuant to the application dated 07.08.2023, which is posted for enquiry on 26.06.2024 as expeditiously as possible preferably within a period of eight weeks.

16. It is made clear that the temple festival shall be held under the supervision of the TNHR&CE Department positively.

This Writ Petition is disposed of with above directions. No costs. W.M.P. (MD)No.11704 of 2024 is allowed. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

21.06.2024

To

- 1 The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai - 34.
- 2 The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

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C.SARAVANAN, J.

apd

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