



W.P.(MD) No.15101 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.15101 of 2024
and
W.M.P.(MD)Nos.13238 & 13239 of 2024**

1.P.Kandhasamy,
2.P.Krishnan.

... Petitioners

Vs.

1.The Commissioner,
O/o. the Commissioner,
The Hindu Religious and Charitable Endowment Department,
No.39, Uthamar Gandhiadigal Salai,
Nungambakkam,
Chennai – 34.

2.The Joint Commissioner,
O/o the Joint Commissioner,
The Hindu Religious and Charitable Endowment Department,
Kariya Malleshwarar Kovil Backside,
Thiruvanaikovil,
Trichy.

3.The Assistant Commissioner,
O/o.the Assistant Commissioner,



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The Hindu Religious and Charitable Endowment Department,
Theppakulam District,
Neela Kareshwarar Thoppu,
Thiruvanaikovil,
Trichy.

4.S.Piramila.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration to declare the appointment of respondent No.4 as a trustee of the temple namely, “Arulmigu Sundara Vinayagar Temple” situated at Minikiyur Village, Marungapuri Taluk, Trichy as illegal and consequently direct the respondents 1 to 3 to constitute a Board of Trustees by including all the representatives from each and every community by considering the petitioner’s representation dated 01.07.2024.

For petitioner : Mr.T.Thirumurugan
For respondents : Mr.P.Subbaraj
Special Government Pleader for R1 to R3
Mr.T.Vadivel for R4

ORDER

Heard learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 to 3 and learned counsel for the fourth respondent.



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2. The petitioner claims to be a villager and a devotee of Arulmigu Sundara Vinayagar Temple, which is a non listed temple.

3. The case of the petitioner is that the appointment of the fourth respondent as a Non-Hereditary Trustee is contrary to Section 47 of the TNHR&CE Act, 1959.

4. It is further submitted that as per the aforesaid provisions, five members have to be appointed in the Board not less than three members and not more than five members of whom one shall be a member of SC/ST and another one shall be a women.

5. It is submitted that in violation of the same, the official respondents/respondents 1 to 3 have appointed the fourth respondent as a Non-Hereditary Trustee on 14.08.2023.

6. Opposing the submissions, the learned Special Government Pleader for the respondents 1 to 3 submits that this Writ Petition is devoid of merits. It is



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submitted that the appointment is made under Section 49(1) of the TNHR&CE Act, 1959, as per which, single trustee can be appointed, in case a temple, which is a non listed temple.

7. It is further submitted that the appointment is made after following due procedure.

8. It is submitted that an advertisement for appointing the Non-Hereditary Trustee was issued on 27.12.2022, followed by the online advertisement dated 12.04.2022, pursuant to which, the fourth respondent had filed an application on 10.05.2023.

9. It is further submitted that the Inspector of TNHR&CE Department has given a report on 25.05.2022. On the same day, the District Committee has perused the report of the Inspector of TNHR&CE Department dated 25.05.2023, pursuant to which, the appointment was made on 14.08.2023. Hence, there is no merits in this Writ Petition.



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10. It is submitted that the petitioner has appellate remedy before the Commissioner under Section 21 of the TNHR&CE Act, 1959. It is further submitted that in case the petitioner deserves, the petitioner may be given liberty to file Revision Petition.

11. I have considered the arguments advanced by the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 to 3 and learned counsel for the fourth respondent.

12. The petitioner has obtained the information regarding the appointment of the fourth respondent only pursuant to the RTI reply, which was received by the petitioner on 07.06.2024. The petitioner has, thereafter, filed this Writ Petition.

13. Considering the same, this Writ Petition is disposed of by permitting the petitioner to file Revision Petition under Section 21 of the TNHR&CE Act, 1959, before the Commissioner/first respondent within 15 days from the date of receipt of a copy of this order.



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14. The Commissioner/first respondent shall entertain the Revision Petition, if it is filed within 15 days from the date of receipt of a copy of this order and dispose of on merits and in accordance with law within a period of six weeks, thereafter.

15. Needless to state, before passing such order, the fourth respondent shall also be heard. While passing such order, the Commissioner/first respondent shall also consider the order passed by this Court in W.P.(MD)No.2709 of 2023 dated 12.04.2024.

This Writ Petition is disposed of with above directions. No costs.
Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

09.07.2024

Internet : Yes / No

apd

To

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C.SARAVANAN, J.

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