



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) Nos.16129 and 16130 of 2024
and**

W.M.P.(MD) Nos.14017 to 14019 of 2024

M.Deivendran

... Petitioner in both W.Ps.,

/vs./

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Virudhunagar.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.
- 4.The Inspector,
Hindu Religious and Charitable Endowment Department,
Aruppukottai Taluk,
Virudhunagar District.



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5.N.Rajarajeshwaran

... Respondents in W.P.(MD) No.16129 of 2024

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Virudhunagar.
- 2.The Inspector,
Hindu Religious and Charitable Endowment Department,
Aruppukottai,
Virudhunagar.

3.N.Rajarajeshwaran

... Respondents in W.P.(MD) No.16130 of 2024

PRAYER in W.P.(MD) No.16129 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order issued by the 2nd respondent vide Se.Mu.Na.Ka.No.3386/2021-3Aa3 dated 08.08.2023 and quash the same as illegal.

PRAYER in W.P.(MD) No.16130 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the 2nd respondent vide proceedings nil dated 26.6.2024 and quash the same as illegal.



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In W.P.(MD) No.16129 of 2024:

For Petitioner : Mr.G.Mariappan
For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader

In W.P.(MD) No.16130 of 2024:

For Petitioner : Mr.G.Mariappan
For R1 & R2 : Mr.P.Subbaraj
Special Government Pleader

COMMON ORDER

In W.P.(MD) No.16129 of 2024, the petitioner has challenged the impugned order passed by the second respondent/the Assistant Commissioner dated 08.08.2023 bearing Ref.Se.Mu.Na.Ka.No.3386/2021-3Aa3 appointing the fifth respondent as the non hereditary trustee under Section 49(1) of the HR & CE Act, 1959.

2.In W.P.(MD) No.16130 of 2024, the petitioner has challenged the impugned communication of the second respondent/the Inspector, asking the petitioner to hand over the charge of the subject temple.

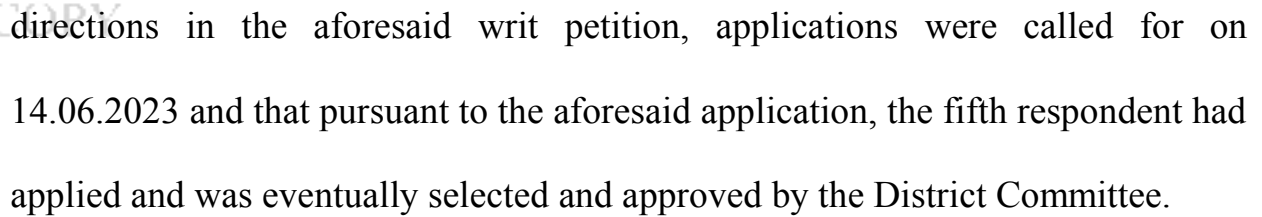


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3.The case of the petitioner is that the petitioner is a trustee, who has been recognized by the members of 4 different communities to manage the subject temple and without any provocation, the impugned orders have been passed by the second respondent in both the writ petitions. It is submitted that *sine qua non* under Section 49 of the HR & CE Act, 1959, is not satisfied and therefore, the impugned orders are liable to be quashed.

4.That apart, it is submitted that the petitioner was also not put on notice before the impugned order dated 08.08.2023 bearing Ref.Se.Mu.Na.Ka.No. 3386/2021-3Aa3 was passed and that the petitioner came to know the same only after the Inspector of HR & CE issued the communication dated 26.06.2024 asking the petitioner to hand over charge of the subject temple to the non hereditary trustee appointed on 08.08.2023 by the Assistant Commissioner.

5.The writ petitions are opposed by the learned Special Government Pleader for the respondents on the ground that the appointments are pursuant to the directions of this Court in W.P.No.574 of 2015 and that pursuant to the



7. I have considered the submissions made by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 to 4.

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9. That apart, the petitioner also has to file a suitable application before the Joint Commissioner under Section 63 of the HR & CE Act, 1959 to establish that the petitioner is the hereditary trustee of the temple recognized by the members of the community.

10. Therefore, these Writ Petition stand dismissed by giving liberty to the petitioner to challenge the impugned orders dated 08.08.2023 and the consequential order dated 26.06.2024 of the second respondent in W.P.(MD) No. 16130 of 2024 before the Commissioner under Section 21 of the HR & CE Act, 1959. The petitioner is also given liberty to file a petition under Section 63(b) of the HR & CE Act, 1959 to establish that the petitioner is the hereditary trustee.

11. In case, such petitions are filed, they shall be disposed of on merits and in accordance with law. Since the right of the petitioner flows from the claim that the petitioner is the hereditary trustee of the temple, it is expected that the Joint Commissioner will first dispose of the petition to be filed under Section 63(b) of the HR & CE Act, 1959, if any, preferably within a period of 3 months from the date of filing of such petition.



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12. Such petition is expected to be filed as expeditiously as possible preferably within a period of 30 days from the date of receipt of a copy of this order. Subject to the outcome of the aforesaid order, the petitioner's appeal will be disposed of by the Commissioner in the proposed appeal against the impugned order.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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22.07.2024

To

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C.SARAVANAN, J.

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W.P.(MD) Nos.16129 and 16130 of 2024

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