



WP(MD)No.18573 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.18573 of 2023
and
WMP(MD)No.15404 of 2023

K.M.Kamatchi

.. Petitioner

v.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai District,
Madurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar Division,
Virudhunagar District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice issued by the first respondent in Na.Ka.No.4116/2022/A1-1 dated 28.06.2023, quash the same and consequently, directing the respondents not to interfere with the day-to-



WP(MD)No.18573 of 2023

day affairs, administration of the petitioner Temple, viz., Arulmigu Kamatchi Amman Temple, situated in Aruppukottai, Virudhunagar District, administered by the petitioner's denominational community.

For Petitioner : Mr.S.Madhavan

For Respondents : Mr.P.Subba Raj,
Special Government Pleader

ORDER

According to the petitioner, a scheme was already framed in O.S.No.5 of 1976 by the Sub Court, Sivagangai, declaring the subject Temple, viz., Arulmigu Kamatchi Amman Temple, as a denomination Temple. Despite the same, the respondents have invited applications for appointing non-hereditary trustees for the temple. Challenging the same, the petitioner has filed this writ petition.

2.Learned Counsel for the petitioner submitted that the Temple is a denominational Temple, belonging to Aruppukottai Devangar Manumahirishi Balidhars Group. It is the Community, which has got the



right to call for applications for appointment of trustees and not the respondents. In this regard, he has relied on a decision of this Court in ***Sri Panduranganathaswami v. Deputy Commissioner*** [AIR 1989 Mad 198].

3.Learned Special Government Pleader submitted that the notice has been issued inviting applications only from the concerned community people, as per the scheme framed.

4.This Court considered the rival submissions made on either side and perused the available materials.

5.Admittedly, a scheme has been framed for the administration of the Temple. While framing the scheme, the learned Subordinate Judge, Sivagangai, in O.S.No.5 of 1976, has held as follows:-

“18. ... it is obvious that it is a Denominational temple as stated by the plaintiffs, that it is not a Public Temple as contended by the defendants and that the defendants have no reason to interfere with the internal administration of the Temple in question. From the discussions supra, I conclude that the suit temple is a Denominational Temple



belonging to Aruppukottai Devangar Manumahirishi Balidhars Group, that it is not a Public Temple, that the plaintiffs are entitled to a permanent injunction restraining the defendants from interfering with their administration and that the suit is maintainable."

6. In the judgment referred by the petitioner's Counsel in *Panduranganathaswami's* case (supra), this Court has held that the community has got the right to call for the applications for the appointment of trustees to the temple and not the Department. The relevant portion is extracted as under:-

"14. In the instant case before us the point stressed is that the right to select or elect or appoint a person of the community as trustee to the petitioner temple vests exclusively with the members of the Sourashtra Brahmin Community of Shevapet, Salem, and not with the Deputy Commissioner, Salem. This contention has to be upheld in view of the decisions referred to above with respect to the interpretation of Art. 26 of the Constitution of India which is more or less embodied in S. 107 of the Tamil Nadu Act, 22 of 1959. In this view a careful scrutiny of the averments in the affidavit sworn to and accompanying this petition and the contentions raised in the counter sworn to by the Deputy Commissioner, Coimbatore, disclose that the right of the petitioner in



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appointing the trustees to the temple has to be upheld and not the contention of the respondent herein that it is well within the purview of S. 107 and S. 63 of the Tamil Nadu Act 22 of 1959 that it can call for the applications for the appointment of trustees. Nowhere it is contemplated that such calling is part and parcel of the duties of the respondent herein especially when it is admitted, that there are circulars which are to the effect that the officers of the rank of the respondent herein should not be incharge of calling for applications when such a right of calling for applications vests with the members of the community and the representatives therefor.

15. Therefore the contention raised on behalf of the petitioner herein by Mr. O.V. Balaswami has to be upheld viz., that it is only the community has got the right to call for the applications for the appointment of trustees to the petitioner temple and not the respondent. The supervisory power of the respondent does not extend to the interference with the right vested in the members of the community which right is one which is well protected by a petition under Art. 26 of the Organic Law of the land, namely, the Constitution of India. Under these circumstances the writ petition is allowed. The notice calling for the applications for the appointment of trustees issued by the respondent is hereby quashed. Under the circumstances since the respondent herein in spite of the circulars and in spite of the decisions of the Supreme Court as well as the High Court has indulged in calling for the applications over and beyond the powers vested with him, the petition



WP(MD)No.18573 of 2023

has necessarily to be allowed with costs and is hereby allowed with costs."

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7. In view of the above position, the impugned notice dated 28.06.2023 issued by the first respondent could not be sustained and the same is, accordingly, set aside.

In fine, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No **27.03.2024**
NCC : Yes / No
Internet : Yes
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To

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WP(MD)No.18573 of 2023

B.PUGALENDHI, J.

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WP(MD)No.18573 of 2023

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