



WEB COPY

WP No. 7925 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-07-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 7925 of 2025

AND

WMP NOs.8905 and 8906 OF 2025

1. S.Gopalakrishnan
S/o. Sivalingam
D No. 81/1 Iswarya garden,
Maravaneri, Salem -7

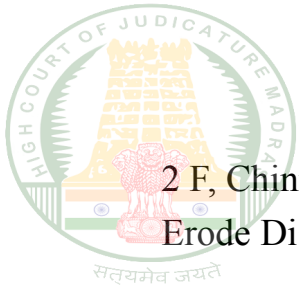
Petitioner(s)

Vs

1. The Secretary
Tourism Culture And Religious And
Endowments Department, Government
Of Tamilnadu, Secretariat,
Fort St George, Chennai 600 005.

2.The Commissioner
Hindu Religious And Charitable
Endowment Department, No.119,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034

3. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,



2 F, Chinna Muthu veedhi,
Erode District.

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4.Thakar / Eecutive Officer

Arulmigu Azhiya Illangai Amman
Temple, Koonavelampatti Pudur,
Rasipuram Taluk, Namakkal District

5. Muthuvelkumaran
S/o.Kandhasamy,
5/91, Near Petrol Bunk,
Andagalur Gate
Rasipuram Taluk, Namakkal District
[impleaded vide order dated 04.07.2025 by
NAVJ in WMP No.15780 of 2025]

Respondent(s)

PRAYER

Writ petition filed under Article 226 of Constitution of India for the issue of writ of Certiorari to call for the records pertaining to the Notification dated 08.01.2025 of the 3rd respondent made in Na Ka No. 11135/2024/A3 and quash the same and pass orders.

For Petitioner(s): Mr.S.Siva Kumar
For Respondent(s): Mr.N.R.R.Arun Natarajan
Special Government pleader for
R1 to R4



ORDER

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This writ petition has been filed challenging the notification issued by the 3rd respondent dated 08.01.2025 wherein the 3rd respondent has called for applications for appointment of Non hereditary trustees in a public temple.

2. The main ground that has been urged on the side of the petitioner is that the notification issued by the 3rd respondent, on the face of it, is violative of the provision under Section 47(1) (c) r/w Section 50 of the Hindu Religious and Charitable Endowments Act, 1959 (hereinafter called as the “Act”).

3. It was clarified by the learned Special Government Pleader appearing on official respondents and the counsel appearing on behalf of the private respondents, who has been impleaded in this writ petition that the application has been called for based on a scheme decree that was passed in OA No.36 of 1984 by the Deputy Commissioner of HR&CE dated 27.04.2011. It was further submitted that there was a controversy on the ground that the scheme decree was not notified and hence, the same was also notified in the Gazette on 21.08.2022. Therefore, it was contended that the application was called for purely based on the scheme decree that has already been passed by the concerned authority and which has been notified in the Gazette.

4. On going through the notification issued by the 3rd respondent dated 08.01.2025, calling for applications, it is seen that applications have been



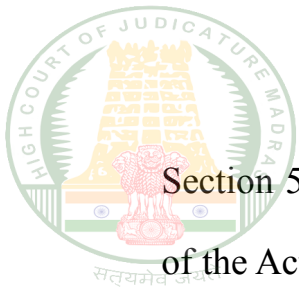
called for only with respect to persons belonging to two particular communities and they are the Vellala Gounders and Nattu Vellala Gounder.

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5. Section 47(1) (c) of the Act, provides that every board of trustees constituted under Section 47 (a) or under clause (b), it should consist of not less than three members and not more than five members and out of whom, one person shall be a member of Scheduled Caste or Scheduled Tribe and another shall be a women. There is absolutely no indication from the notification issued by the 3rd respondent that the board of trustees is going to be filled up by including a member of the SC or ST community and one women.

6. The justification that has been given on the side of the department and the impleaded respondent is that the appointment of trustees is being made based on the scheme decree passed by the competent authority.

7. In order to deal with the above submission, this Court has to take note of Section 50 of the Act. This provision makes it clear that the power to appoint trustees under Section 47 or under 49 or under Section 49A shall be exercisable notwithstanding that the scheme, if any, settled containing provisions to the contrary. This provision virtually over rules a scheme that has already been settled. Thus, in order to implement Section 47 (1) (c), even if there is a scheme decree in subsistence, if it runs contrary to Section 47(1) (c), the provisions will outweigh the scheme decree to that extent. The operation of



Section 50 should be implemented *dehors* the provisions under Section 7 A (5) of the Act.

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8. As per the scheme decree, the Non Hereditary trustees shall be elected from the two communities mentioned supra from amongst people of Rasipuram taluk. Hence, in order to balance the scheme decree on the one hand and the provisions of Section 47 (1) (c) of the Act, it will be more appropriate for the 3rd respondent to call for the applications from persons belonging to those communities and restrict that number to three and fourth and fifth member can be the persons from the Scheduled caste or Scheduled Tribe community and a women. If the notification is modified to that extent, it will take care of both the scheme decree as well as the provisions of the Act.

9. The learned counsel for the petitioner submitted that for a public temple the official respondents cannot call for applications only from persons belonging to a particular caste or community. This is a larger issue which cannot be gone into the present writ petition and in any case, the scheme decree has not been put to challenge. Therefore, this Court is not inclined to go into this issue in the present writ petition.

10. In the light of the above discussion, there shall be a direction to the 3rd respondent to modify the notification and issue a fresh notification in line with the observations made supra and call for applications for appointment of non-hereditary trustees for the temple.



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11. This writ petition is disposed of with the above directions.

Consequently, the connected miscellaneous petitions are closed.

04-07-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Secretary

Tourism Culture And Religious And
Endowments Department, Government
Of Tamilnadu, Secretariat,
Fort St George, Chennai 600 005.

2. The Commissioner

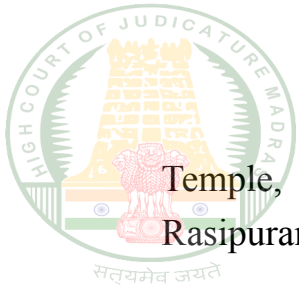
Hindu Religious And Charitable
Endowment Department, No.119,
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