



W.P.(MD)No.396 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.P(MD)No.396 of 2023

and

W.M.P(MD)Nos.363 & 364 of 2023

P.Subramanian

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Trichy.
- 3.The Executive Officer,
Arulmigu Ponnar Sankar Temple,
Valanadu,
Marungapuri Taluk,
Trichy District.
- 4.The Fit Person,
Arulmigu Ponnar Sankar Temple,
Valanadu,



W.P.(MD)No.396 of 2023

Marungapuri Taluk,
Trichy District.

5.N.R.Thiruvengatam
6.R.Chandrasekar
7.C.Ram Karthick

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Se.Mu.Na.Ka.No.3962/2022/Aa4 dated 12.12.2022 issued by the second respondent, quash the same as illegal.

For Appellant : Mr.H.Lakshmi Shankar

For Respondents : Mr.J.K.Jeyaselan
Government Advocate
for R.1 & R.2

Mr.G.Mathavan
for R.3 & R.4

Mr.P.Ganapathi Subramanian
for R.5

No Appearance for R.6 & R.7

ORDER

(Order of the Court was made by G.R.Swaminathan J.)

Heard both sides.



W.P.(MD)No.396 of 2023

WEB COPY 2.The case on hand pertains to the management of Arulmigu Ponnar Sankar Temple, Valanadu, Marungapuri Taluk, Trichy District. Vide order dated 25.11.2010 in O.A.No.15 of 1994, the office of trustee of the said temple was declared to be hereditary. As a result of such declaration, two persons, namely, Chandrasekar and Thiruvengatam were declared as hereditary trustees. This said order is now the subject matter of *suo motu* revision proceedings on the file of the Commissioner, HR&CE. Vide order dated 03.12.2025 in W.A(MD)No.765 of 2020, we had directed the Commissioner, HR&CE to dispose of the said revision proceedings within six months.

3.Since allegation of misappropriation had been made, the trustees were placed under suspension and a fit person is in charge of the temple as on date. The order appointing the fit person was challenged and vide order dated 03.12.2025 in W.P(MD)No.6148 of 2019, we made the same subject to the outcome of the *suo motu* revision proceedings. In this writ petition, entering the name of Thiru.C.Ram Karthick (seventh respondent herein) as hereditary trustee of the temple under Section 54(1) of the Act, vide proceedings dated 12.12.2002 on the file of the Joint Commissioner,



W.P.(MD)No.396 of 2023

HR&CE Department, Trichy is under challenge. The validity of the said order is assailed in this writ petition.

4.The learned counsel appearing for the writ petitioner points out that the authority had misconstrued the scope of Section 54 of TN HR&CE Act. As per Section 54(1), 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. It is conceded that as per the decision of the Madras High Court reported in **1990 1 LW 144 (Prem Anand Vs The Commissioner, H.R&C.E)** regarding the name of the person next in the line of succession is ministerial character. Section 54(2) provides that the next in the line of succession shall be entitled to succeed when temporary vacancy occurs in the office by reason of suspension of the hereditary trustee under Sub-section (2) of Section 53 of Act.

5.The learned counsel appearing for the writ petitioner contends that Section 54(2) would be attracted only when suspension of the hereditary trustee is made as a measure of punishment and then alone, this sub Section will kick in. According to him, when the hereditary



W.P.(MD)No.396 of 2023

trustee is suspended pending enquiry into charges, Section 54(2) cannot be invoked. In support of this contention, he relied on catena of decisions particularly the one reported in **2015 8 MLJ 468 (A.Chidambaram Vs The Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Board)** and the Hon'ble Division Bench of this Court rendered on **25.09.2018** in **W.A(MD)No.318 of 2017 (The Commissioner, HR&CE Department, Nungambakkam High Road, Chennai – 600 034 & Others Vs Muthiah Velar & Others)**. This submission is controverted by the learned counsel for the contesting respondent.

6.We are of the view that this issue has been settled by the Hon'ble Division Bench in the decision reported in **(1966) 1 M.L.J 288 (N.H.M. Pandian v. Deputy Commissioner, Hindu Religious and Charitable Endowments (Admn.) Madurai)**. The relevant paragraph is as follows:

It becomes, therefore, clear that as Sub-S. (4) of Section 53 makes a specific provision for suspension pending an enquiry, such a power is, therefore, not covered by the other provisions which provide for suspension following an enquiry. **We are of the view, therefore, that suspension pending an enquiry does not fall within the ambit of S. 54, because of the principle that a special provision excludes**



W.P.(MD)No.396 of 2023

the general. Sub-S. (4), while providing for power of suspension pending an enquiry, gives also power to appoint a fit person to discharge the duties and perform the functions of the trustee.

...

But having regard to the scheme of S. 54, the policy of the Legislature appears to be that while dealing with a vacancy in a hereditary office, the right of the next in line to succeed is recognised and it is because of that, even where a vacancy cannot be filled up immediately, in appointing a fit person, due regard should be had to the claims of the members of the family of the trustee..... we are of the view that having regard to the nature of the office of hereditary trustee under the general law, the appellant is entitled to contend that, although Sub-Sec. (4) does not provide for it, **it is necessary, while appointing a fit person, to have due regard to the claims of the members of the family of such trustee."**

7.The said decision has been referred to in the decision reported in ***2015 8 MLJ 468 (A.Chidambaram Vs The Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Board)***. After a careful perusal of the earlier precedents, one can easily come to the conclusion that when a hereditary trustee is suspended pending enquiry into charges, the person next in line of succession cannot be appointed as



W.P.(MD)No.396 of 2023

a trustee even temporarily. However, such person is entitled to be considered for being appointed as a Fit Person. Only if the person next in the line of succession is found to be unsuitable or unfit, then and then alone, a third party or a departmental official can be appointed as a Fit Person.

8.Coming to the case on hand, one of the hereditary trustees, namely, Chandrasekar was suspended as early as on 28.02.2019. Citing his old age, he submitted a letter relinquishing his claim to the office. In service jurisprudence, an employee under suspension cannot quit. That analogy cannot be applied to a case of hereditary trustee. Even when under suspension, he can offer to quit. In this case, Chandrasekar had quit his office. As a result, permanent vacancy arose in the office of the hereditary trusteeship. The impugned order wrongly records it as temporary vacancy. Be that as it may, since a permanent vacancy had arisen, Section 54(1) of the Act will get triggered and the authority rightly entered the name of Ram Karthick as one of the hereditary trustees.



W.P.(MD)No.396 of 2023

WEB COPY 9. In this writ petition, an interim stay has been operating right from inspection. We had already upheld the appointment of Fit Person in the other writ petition. We had also given a direction to the Commissioner that the *suo motu* revision proceedings will be concluded within six months. The impugned order will abide by the outcome of the *suo motu* revision proceedings now pending before the Commissioner, HR&CE which has already been directed to be disposed of expeditiously.

10. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [R.K.M, J.]
04.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

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Hindu Religious and Charitable
Endowment Department,
Chennai – 600 034.



W.P.(MD)No.396 of 2023

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W.P.(MD)No.396 of 2023

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W.P(MD)No.396 of 2023

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