



W.A.(MD)No.1211 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD)No.1211 of 2024

S.Periyasamy

... Appellant

Vs.

1.The Commissioner,
H.R & C.E Department,
Tirunelveli.

2.The Joint Commissioner,
H.R & C.E Department,
Tirunelveli.

3.S.Esakki Pandian

4.Nivek

5.M.Savarivasan

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.2837 of 2024 dated 12-02-2024 on the file of this Court.



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For Appellant : Mr.S.Meenakshi Sundaram, Senior Counsel,
For Mr.T.Selvan

For Respondents : Mr.P.Subbaraj,
Spl. Government Pleader for R1 & R2.
Ms.C.Geetha for R4 & R5.

JUDGMENT

Heard the learned senior counsel for the appellant, the learned Special Government Pleader for the department and the learned counsel for the contesting private respondents.

2.The case on hand pertains to the management of Arulmigu Pasunkili Ayyan Sastha Temple, Gopalasamudram, Tirunelveli District. The Joint Commissioner, Hindu Religious and Charitable Endowment Department, Tirunelveli vide proceedings dated 05.01.2024 appointed the respondents 3 to 5 as non-hereditary trustees for the said temple. Challenging the same, the appellant filed W.P.(MD)No.2937 of 2024. The learned Single Judge recorded a finding that the appointment is in terms of the scheme framed in O.A.No.1 of 1999 and declined to entertain the writ petition. Questioning the same, this writ appeal came to be filed.



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3.It is not in dispute that O.A.No.1 of 1999 filed in Section 64(1) of the Hindu Religious and Charitable Endowment Act, 1959, a scheme of administration was framed on 20.06.2006 by the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Tirunelveli. Clause 4 of the scheme reads as follows:-

“This temple and their properties shall be administered by the non-hereditary trustees not less than three and not more than five selected from the community of Patharai Panku Thevanars living in Gopalasamudram Village subject to the qualification mentioned under Section 26 of the Act 22/59”

4.The learned Single Judge extracted the aforesaid clause and came to the conclusion that since the trustees appointed by the Joint Commissioner were selected from the said community, interference is not warranted.

5.The learned Single Judge may not have been fully right. As rightly pointed by the learned senior counsel for the temple, the



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succeeding paragraph was not taken note of by the learned Single Judge.

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Clause 4 is as follows:-

“Such selection shall be made by the said community members at its general body meeting and the list of selected persons shall be sent to the competent authority to place the same before the District Committee or Tamil Nadu Temple Administrative Board as the case may be for its approval and the said District Committee, Temple Administrative Board will appoint the trustees under Section 49 of the Act subject to the qualifications mentioned under Section 26 of the Act 22/59.”

A mere reading of the aforesaid clause indicates that a general body meeting of the community must be convened and in that meeting, three to five persons must be selected and the select list should be sent to the competent authority, who will ultimately make the appointment.

6.In this case, such a general body meeting was not convened at all. Therefore, the impugned proceedings of the Joint Commissioner cannot be said to be in accord with the scheme set out in O.A.No.1 of 1999 dated 20.06.2006. But we are not inclined to set aside the impugned proceedings for the simple reason that 1 ½ years have elapsed and the trustees have hardly six more months of tenure left.



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7.However, the illegality that had taken place cannot be allowed to be perpetuated. We therefore direct the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Tirunelveli to forthwith notify the constitution of the general body. The Joint Commissioner, Hindu Religious and Charitable Endowment Department, Tirunelveli will associate his immediate sub-ordinate in this task. Within a period of three weeks from the date of receipt of a copy of this judgment, the composition of the general body as envisaged by the scheme shall be finalized. Thereafter, the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Tirunelveli will convene the general body meeting for selecting the trustees. Once the said selection is over, then the appointment has to be made in terms of Clauses 4 and 5 of the scheme. The entire exercise shall be completed within a period of two months. Once the process is completed, the trustees selected under the impugned proceedings will have to immediately vacate their office.

8.We are of the view that the scheme framed on 20.06.2006 in O.A.No.1 of 1999 does not appear to be comprehensive. We note that



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there are quite a few gaps. We, therefore, call upon the second respondent to *suo motu* have a re-look at the scheme.

8.This writ appeal is disposed of accordingly. No costs.

(G.R.S. J.) & (K.R.S. J.)
06.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 10.06.2025.

To:

- 1.The Commissioner,
H.R & C.E Department,
Tirunelveli.
- 2.The Joint Commissioner,
H.R & C.E Department,
Tirunelveli.



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