

CODING SHEET

High Court of Judicature at Madras

WRIT SIDE

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S.R.No. Date of Presentation

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(To be filled by the Petitioner in Black ink)

Petitioner 1. Indic Collective Trust, Rep. By Its President & 2. Mr. T. R. Ramesh

Respondent 1. State of Tamil Nadu & 2. Commissioner, Hindu Religious and Charitable Endowments Department

Petitioner Counsel M/s. G. R. Associates, Niranjana Rajagopalan, Abhinav Parthasarathy, V. Ranjitha

Respondent Counsel _____

Subject Matter / Act Hindu Religious and Charitable Endowments Act, 1959

Subject/Category Code

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Connected /Previous/
Covered case, if any Type No of

Passing Officer 
Counsel for Petitioner

(To be filled by the Court Officer/PA concerned in Court itself in Red Ink)

Nature of Disposal _____ By _____

Date of Disposal

d	d	m	m	y	y	y	y

Court Officer/PA

INDIA e - Court Fee System**:: Verify e-Court Fee Receipt****Receipt Details**

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Government of Tamil Nadu e-Court Fee Receipt	
Issue Date & Time	: 19-JUL-2020 21:20:35
Name of The Acc	: NIRANJAN RAJAGOPALAN
Location	: TAMIL NADU
Receipt Type	: Court Fee Receipt
Name of Litigant	: INDIC COLLECTIVE TRUST & TR RAMESH
e-Court Fee Receipt No	: TNCT1935G2020V238
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**MEMORANDUM OF WRIT PETITION FILED UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P. No. of 2020

1. Indic Collective Trust
5E, Bharat Ganga Apartments,
Mahalakshmi Nagar 4th Cross Street,
Adambakkam, Chennai – 600088
Represented by its President Mr. T.R.Ramesh

2. T.R.Ramesh
Flat 3B, Nataraj Apartments
17 D'Silva Road, Mylapore,
Chennai – 600 004.

....Petitioners

Versus

1. The State of Tamil Nadu
Rep. by its Secretary,
Department of Tourism, Culture and
Religious Endowments Department,
Secretariat, Fort St. George,
Chennai – 600 009

2. The Commissioner
Hindu Religious & Charitable
Endowments Department
119, Mahatma Gandhi Road,
Nungambakkam
Chennai – 600 034.

... Respondents

WRIT PETITION

The address for service of all notices and processes on the petitioners is that of his counsel M/s. G. R. Associates, Niranjan Rajagopalan, Abhinav Parthasarathy and V. Ranjitha having office at III-A, High Court Chambers, Madras High Court, Chennai – 600 104.

The address for service of all notices and processes on the respondents is the same as stated above.

For the reasons stated in the accompanying affidavit, it is humbly prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or Direction in the nature of a Mandamus forbearing the Respondents from transferring of funds or utilisation funds of Hindu Religious Institutions in the absence of Hereditary Trustees or Trustees duly appointed and having due qualifications under Section 25-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and unless after complying with the due process therefore, laid down in Section 36 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and prescribed in the utilisation of Surplus Funds Rules 1960 framed under the said 1959 Act and pass any such further or other orders as this Hon'ble Court may deem fit in the facts and circumstances of the case and thus render Justice.

Dated at Chennai on this the 19th day of July 2020.



COUNSEL FOR PETITIONER

**IN THE HIGH COURT OF JUDICATURE
AT MADRAS**

(SPECIAL ORIGINAL JURISDICTION)

W.P No of 2020

WRIT PETITION

**M/s G.R. ASSOCIATES
ROC/3935/04/F2**

**Niranjana Rajagopalan
MS 2915/2012**

**Abhinav Parthasarathy
MS 2606/2013**

**Ranjitha V
MS 2976/2018**

COUNSEL FOR PETITIONER

Ph. 9381803616

**MEMORANDUM OF WRIT MISCELLANEOUS PETITION FILED UNDER ART
226 OF THE CONSTITUTION OF INDIA**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.M.P No. of 2020

in

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2. The Commissioner
Hindu Religious & Charitable
Endowments Department
119, Mahatma Gandhi Road,
Nungambakkam
Chennai – 600 034.

... Respondents/ Respondents

INJUNCTION PETITION

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an order of interim injunction restraining the 2nd respondents herein from initiating or sanctioning any transfer or utilisation of funds under Section 36, 36-A or 36-B of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, pending disposal of the writ petition and thus render Justice.

Dated at Chennai, this the 19th day of July, 2020



Counsel for Petitioner

**IN THE HIGH COURT OF JUDICATURE
AT MADRAS**

(SPECIAL ORIGINAL JURISDICTION)

W.M.P No of 2020

IN

W.P No of 2020

INJUNCTION PETITION

M/s G.R. ASSOCIATES

ROC/3935/04/F2

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Rep. by its Secretary,
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Secretariat, Fort St. George,
Chennai – 600 009

2. The Commissioner
Hindu Religious & Charitable
Endowments Department
119, Mahatma Gandhi Road,
Nungambakkam
Chennai – 600 034.

... Respondents/ Respondents

DIRECTION PETITION

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may kindly be pleased to issue an interim direction directing external audit into all the cases of funds being transacted under Sections 36, 36A, 36B and 97 in the name of surplus funds and to the Common Good Fund and examine and produce a report before this Hon'ble Court pending disposal of the Writ Petition and thus render justice.

Dated at Chennai, this the 19th day of July, 2020



Counsel for Petitioner

**IN THE HIGH COURT OF JUDICATURE
AT MADRAS**

(SPECIAL ORIGINAL JURISDICTION)

W.M.P No of 2020

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DIRECTION PETITION

M/s G.R. ASSOCIATES

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....Petitioners/ Petitioners

Versus

1. The State of Tamil Nadu
Rep. by its Secretary,
Department of Tourism, Culture and
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Secretariat, Fort St. George,
Chennai – 600 009

2. The Commissioner
Hindu Religious & Charitable
Endowments Department
119, Mahatma Gandhi Road,
Nungambakkam
Chennai – 600 034.

... Respondents/ Respondents

DIRECTION PETITION

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may kindly be pleased to Issue an Interim Direction directing the 2nd respondent to provide details of all sanctions provided under Section 36, 36-A, 36-B and in relation to Section 97 of the Hindu Religious and Charitable Endowments Act 1959, pending disposal of the above writ petition and thus render Justice.

Dated at Chennai, this the 19th day of July, 2020



Counsel for Petitioner

**IN THE HIGH COURT OF JUDICATURE
AT MADRAS**

(SPECIAL ORIGINAL JURISDICTION)

W.M.P No of 2020

IN

W.P No of 2020

DIRECTION PETITION

M/s G.R. ASSOCIATES

ROC/3935/04/F2

Niranjana Rajagopalan

MS 2915/2012

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MS 2976/2018

COUNSEL FOR PETITIONER

Ph. 9381803616

**MEMORANDUM OF WRIT MISCELLANEOUS PETITION FILED UNDER ART
226 OF THE CONSTITUTION OF INDIA**

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W.M.P No. of 2020

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....Petitioners/Petitioners

Versus

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Rep. by its Secretary,
Department of Tourism, Culture and
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Secretariat, Fort St. George,
Chennai – 600 009

2. The Commissioner
Hindu Religious & Charitable
Endowments Department
119, Mahatma Gandhi Road,
Nungambakkam
Chennai – 600 034.

... Respondents/Respondents

2-B PETITION

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to permit the petitioners to file a single writ petition and thus render Justice.

Dated at Chennai, this the 19th day of July, 2020

Counsel for Petitioner

**IN THE HIGH COURT OF JUDICATURE
AT MADRAS**

(SPECIAL ORIGINAL JURISDICTION)

W.P No of 2020

2-B Petition

**M/s G.R. ASSOCIATES
ROC/3935/04/F2**

**Niranjan Rajagopalan
MS 2915/2012**

**Abhinav Parthasarathy
MS 2606/2013**

**Ranjitha V
MS 2976/2018**

COUNSEL FOR PETITIONER

Ph. 9381803616

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P.No. of 2020

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...Petitioners

Versus

1. The State of Tamil Nadu
Rep. by its Secretary,
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119, Mahatma Gandhi Road,
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Chennai – 600 034.

... Respondents

COMMON AFFIDAVIT FILED ON BEHALF OF THE PETITIONERS

I, T. R. Ramesh, son of Dr. T.N. Ramachandran, Hindu, aged about 58 years, residing at Flat 3B, Nataraj Apartments, 17 D'Silva Road, Mylapore, Chennai – 600 004, do hereby solemnly affirm and sincerely state as follows: -

1. I am the 2nd Petitioner herein and I am well acquainted with the facts and circumstances of the case. I am the President of the first petitioner herein and authorized to swear the affidavit on its behalf.



2. I respectfully submit that, the present set of writ petitions are being filed as Public Interest Litigation under Article 226 of the Constitution of India praying for Writ of Mandamus or any other appropriate writ, seeking to restrain/forbear certain illegal practices in respect of handling of funds of religious institutions and for issuance of guidelines and/or directions in respect of a pattern of illegal transfer of funds of Hindu Religious Institutions that are under the control of the Hindu Religious and Charitable Endowments Department, in the facts and circumstances stated hereunder.

3. I respectfully submit that the 1st petitioner trust has been constituted with the object of, propagating and protecting the ethos of Indian Culture, Tradition, Human Values, Unity and Brotherhood, to promote education, arts, scientific endeavors, provide relief to victims of calamities, provide medical assistance, promote traditional medicine, welfare of families of Martyrs, preservation of heritage, natural & man made, to spread the teachings of great saints, thought leaders, philosophers among other related objectives. The Trust Deed of the 1st petitioner is enclosed as a document, which details the objects and the same may be referred to as part and parcel of this affidavit. The Trust is registered via Deed dated 19.06.2017 in Document No. 139/2017/BK-4 before the office of the Sub-Registrar, Velacheri.

4. I respectfully submit that, the 1st petitioner trust, apart from its various charitable and social activities, has also participated in initiation of and participation in legal proceedings to protect the Constitutional values and Indian culture and heritage and rights associated with it. In this line, the 1st Petitioner has intervened in the issues of Revocation of Jammu and Kashmir's special status, Constitutional validity of the T.N. Hindu Religious & Charitable Endowments Act 1959 and Rules framed thereunder, issues relating to



administration of Puri Jagannath temple, Firecracker Ban and Deportation of Rohingyas before the Hon'ble Supreme Court.

5. I respectfully submit that I, the 2nd petitioner, am a permanent resident of Chennai, qualified Post-Graduate in Commerce, and was in the management of a Multi-National Bank. I am also currently the President of Temple Worshippers Society, Chennai, a society registered under the Societies Registration Act, 1975. I have been espousing the cause of Hindu temples, the protection of their heritage structures and clean administration of temples by carrying out research, creating public awareness, taking legal initiatives, including filing of Writ Petitions and/or Public Interest Litigations for the purposes of: -

- protecting and maintaining temples, their traditions and their antique and heritage structures, statuaries and icons;
- protection of movable and immovable properties of Hindu Temples and endowments - including statuaries and icons belonging to the temples and connected endowments; and
- defending the fundamental, religious and cultural rights guaranteed by the Constitution of India to Citizens of India including Hindu Citizens under its Articles 25, 26 and 29(1).

6. I respectfully submit that, I have been an avid researcher on laws and history relating to Hindu Religious and Charitable endowments and the department and have been creating awareness about the provisions in the T.N. Hindu Religious and Charitable Endowments Act 1959 as well as pointing out the non-compliance of certain provisions of the Act, by the authorities in my personal capacity as well as on behalf of the 1st petitioner Trust. While I am a believer



in the principle of non-interference of Secular State in Religious institutions as a matter of Constitutional Morality, I have been vigilant observer of the respondent department and taking all steps to ensure compliance of such of the provisions of the 1959 Act, which ensures transparency of functioning and protection of rights. The 1st petitioner is carrying out such awareness and activities across the Country.

7. I respectfully submit that I have filed a number of public interest litigations on similar issues and currently Writ Petitions in W.P. Nos. 11412 and 11413 of 2015, (as Secretary-General of Temple Worshippers Society) regarding non-appointment of Trustees to Hindu Temples as mandatorily required under Section 47 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to in this Writ Petition as the 1959 Act for brevity), Writ Petition in W.P. No. 17468 of 2016 challenging the Management and Preservation of Properties of Religious Institutions Rules framed under the said 1959 Act and Writ Petition in W.P. No. 6810 of 2018, questioning the authority of the officials of the Hindu Religious and Charitable Endowments Department (hereinafter referred to in this Writ Petition as the Hindu Religious and Charitable Endowments or respondent Department for brevity) in conceiving, deciding and carrying out core religious ceremonies in Hindu Temples including Temple Consecrations, Writ Petition in W.P. No. 32387 of 2019 challenging G.O. Ms. No. 318 and dated 30.08.2019 issued by Revenue and Disaster Management Department, are pending before this Hon'ble Court. The writ petition relating to non-appointment of trustees is dealt with in necessary detail, further below, the issue to an extent being directly relevant to the case herein. I respectfully submit that I had also filed W.P. No. 7567 of 2020, regarding unauthorised transfer of temple funds, citing Covid-19 to Tamil Nadu Chief Minister's Relief Fund, in similar spirit as this petitions,



which was disposed as infructuous pursuant to the respondents withdrawing the impugned circular.

8. I respectfully submit that the writ petitions are filed from the funds of the 1st Petitioner. The Trust is assessed under Permanent Account Number AABTI4756Q. I am an income tax assessee and my Permanent Account Number is AEPPR4560K. I enclose a copy of my AADHAAR Card (2585 0452 9082) also in the typed set along with a copy of my PAN card and that of the 1st petitioner.
9. I respectfully submit that the petitioners do not have any personal interest or agenda against the respondents, or any person concerned with the respondents. I hereby undertake to pay any cost that may be awarded if the above Writ Petition is found to be frivolous or without adequate basis.
10. I respectfully submit that, both the petitioners are commonly aggrieved and to avoid technical objections, in addition to representing the Trust, I am filing these writ petitions as the 2nd petitioner.
11. In the circumstances, it is prayed that this Hon'ble Court may be pleased to permit the petitioners to file a single writ petition and thus render Justice.
12. I respectfully submit that India i.e. Bharat is conceived as a "Secular State" as referred to in the Preamble to the Constitution and under Article 25 (1), the freedom of conscience and free profession and practice of religion is granted as a fundamental right. Under Article 25(2), the regulation of any economic, financial or other secular activity associated with religious practice is contemplated. It is submitted that such power to regulate is subject to the other provisions of the Constitution including sub clause (1) of Art.25. Article 26 provides for freedom to manage religious affairs to every religious



denomination or any section thereof among others, in the matter of earning, acquisition and administration of movable and immovable property. Article 27 provides that no person shall be compelled to pay any taxes the proceeds for which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. I respectfully submit that I am advised to state that a combined reading of Article 26 and 27 postulates insulation from the State, from appropriating any funds connected with temples or religious matters.

13. I respectfully submit that the Tamil Nadu Hindu Religious & Charitable Endowments Act 1959 contains several provisions relating to management of the properties of the religious institutions. The various provisions include those relating to utilisation of surplus funds, auditing, accounting, annual contributions for the government, creating of various funds, costs of proceedings etc. I respectfully submit that several of the provisions have been challenged before the Hon'ble Supreme Court as unconstitutional being violative of Articles 14, 25, 26 and 27 especially. I respectfully submit that there are several rules that have been framed under the Hindu Religious and Charitable Endowments Act dealing with the manner with which the funds are permitted to be utilised.

14. I respectfully submit that the temples in India especially the State of Tamil Nadu have been endowed with substantial properties right from the days of the kings who have built or have renovated it, and later on several individuals have settled upon or donated their properties movable and immovable on its temples or its deities. In addition, the devotees donate to the temples through Hundis and after the aggrandizement of the control of the Hindu Religious and Charitable Endowments department over Hindu Temples, there has also been



collection of funds for in the name of special darshan, abhishekam , archanai, utsavams etc. The scheme of the 1959 Act is that all aspects of administration of Hindu Religious Institutions are to be carried out by the Trustees of such institutions especially regarding preparation of preparation of budgets, utilisation of funds and incurring expenditure, fixing fair rent for properties, preparation of registers, appointment and control of office holders and servants and keeping regular accounts of all receipts and disbursements. I respectfully submit that the Trustees are expected to put the immovable properties of the temples on lease or rent and derive due income therefrom for the deity or the temple. This being the situation it's clear that whoever manages the temples potentially handles a significant amount of funds. While there are provisions dealing with the manner in which the funds are to be utilized, the same are inadequate and in certain parts it is submitted are unconstitutional also.

15. I respectfully submit that the constitutional validity of various provisions of the 1959 Act by which Government seeks to exercise 'control' over religious institutions have been challenged before the Supreme Court as follows:

A. In Shri Dayananda Saraswati Swamiji & Ors Vs State of Tamil Nadu & Ors the Constitutional validity of Sections 3(1), 3(4), 23, 24, 26, 32, 35, 36, 36-A, 36-B, 43-A, 45, 47, 49-B, 50, 54(1), 63, 71-76, 92, 97, 108 and 111 of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959 have been challenged and is pending before the Supreme Court, as W.P. (C) No. 476 of 2012.

B. In Sri Subramanya Swami Koil Swathanthra Paripalana Sthalathargal Sabhai & Ors Versus State of Tamil Nadu the Constitutional Validity of Sections 1(3), 3, 23, 24, 25-A, 26, 27, 34, 34A, 34B, 34C, 34D, 35, 36, 45, 47, 48, 49, 49-B, 50, 52, 53, 54, 56(2), 57, 58, 59, 61, 63, 64, 65, 66, 67,



69, 70, 71-76, 92, 97, 108 & 111 of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959, Utilisation of Surplus Fund Rules, 1960, Conditions for Appointment of Executive Officers Rules, 2015 & Appointment of Auditors Rules, 1961 framed under the 1959 Act, have been challenged and pending adjudication before the Hon'ble Supreme Court in W.P. (C) No. 1432 of 2019. The 1st petitioner trust is one of the co-petitioners in the said writ petition.

16. I respectfully submit that, several of these provisions have the effect of restricting the financial autonomy and independence of religious institutions, blur and in some cases extinguish the distinction between Temple and the State. I respectfully submit, even while assuming the validity of the provisions under the 1959 Act, the respondent department has not been following the provisions therein and has been appropriating and misusing the funds of the temple in an indiscriminate and unlawful manner.
17. I respectfully submit that for convenience, such illegal handling of funds of temples is characterised under various headings, keeping in mind the nature of violation they constitute, into cases where no such power is conferred under the act, misuse of the power and plain cases of misappropriation of funds. These are delineated below under three separate headings. Another connected issue requiring external audit of religious institutions is discussed below, reserving the right to seek remedy under law, independently.
18. I respectfully submit that, as a precursor to the aforesaid issues, one of the contentious issues that I have been repeatedly raising and agitating, is with respect to the non-appointment of trustees in the various religious institutions, and the consequence of the same in the dealing of funds of such institutions. I respectfully submit, central to this issue, is the Writ Petitions in W.P. Nos.



11412 and 11413 of 2015, wherein the illegalities in the manner of function of the respondent department in not appointing trustees as contemplated under the Act and instead appointing mostly servants of the HR & CE Department as “fit persons” who are persons to officiate for an interim period pending appointment of trustees has been questioned. However, these temporary persons continue for periods longer than contemplated for the Board of trustees themselves. Though the Respondent department has undertaken to rectify the same in its counter affidavit, it has not done so till date.

19. I respectfully submit that the respondents herein from 2011, have appointed the servants of the Hindu Religious and Charitable Endowments Department as “Fit Persons” in about 19,000 temples which do not have hereditary trustees, instead of qualified Hindu Citizens having qualifications mandated under Section 25-A of the 1959 Act and from the respective denominations from the localities of such temples. It is further submitted that even though the prescribed “interim period“ for the appointment of a fit person is proscribed to a maximum of 90 days vide Proviso to Rule 2(1) of the Functioning of the Board of Trustee Rules framed under the 1959 Act and in any case cannot exceed the 2 year life of a Board of Trustees, continuation of such an appointment for periods such as 9 years (now) etc. as admitted by the Government in its counter affidavit in the aforesaid matter is without any authority of law is patently unlawful. A copy of the Counter Affidavit filed in W.P. Nos. 11412 and 11413 of 2015, as well as the affidavit filed in support of the writ petition is enclosed in the typed set of papers and the same may be referred to as part and parcel of this affidavit.
20. I further respectfully submit that as per G.O.Ms.No. 223 dated 10.06.2011 and as per G.O.Ms.No. 264 dated 11.07.2011, it has been clearly laid down that the fit persons can be appointed only to carry out very essential matters of the



Temple viz., pooja expenses, annadhanam and salaries. Hence, acts such as, transfer of surplus funds, contribution to the Commissioners Common Good Fund and alienation of properties, including leases beyond a period of 5 years are beyond the scope and powers of the 'fit persons' appointed by the respondents or the instrumentalities acting under them.

21. I respectfully submit that, many of the provisions of the H.R. and C.E. Act, 1959 in regard to utilisation of funds, envision and empower the trustees as the decision makers with certain checks. The continuous devaluation of the office of Trustees by keeping the same empty for many years, and instead ostensibly empowering itself (HR & CE Department and the State instrumentalities) as the decision maker, is an arbitrary exercise of power and a fraud on the scheme of the Act and on Articles 25 and 26 of the Constitution. More specially are the arrogation of powers relating to utilisation of surplus funds, which is a permeating issue and an explicit factor in all the instances of violations.

(i) **Utilisation Of Surplus Funds Under S.36 Of The 1959 Act**

22. I respectfully submit that, the provisions in Chapter IX and X of the 1959 Act deals with the manner in which the funds of temples are to be applied in general, and Chapter III deals specifically with the utilisation of surplus funds.

23. Section 36 reads as follows:

"Section 36 - Utilisation of surplus funds

With the previous sanction of [the Commissioner], and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institutions may appropriate for any of the purposes specified in sub- section (1) of section 66—

(i) any portion of the accumulated surplus of such institution, and

(ii) if, after making adequate provision for the purposes referred to in sub-section (2) of section 86 and also for the arrangements and the

training referred to in sub-section (1) of section 35, there is a surplus in the income of the institution for any year or any portion of such surplus

Provided that the trustee shall, in appropriating the surplus under this section, give preference to the purposes specified in items (a) to (g) of sub-section (1) of section 66:

Provided further that, before according the sanction under this section, [the Commissioner] shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest:

Provided also that, the sanction aforesaid shall be published in such manner as may be prescribed:

Provided also that, nothing in this section shall prevent the trustee of a math or of a specific endowment attached to a math from utilizing the surplus referred to in this section in such manner as he deems fit."

24. I am advised to state that Section 36 of the 1959 Act read with other provisions of the Act, provides for certain procedures and criteria for calculating, ascertaining and utilising the surplus funds of a Hindu religious institution. Section 36 read with Section 66 of the Act specifies that the funds of a Hindu Religious Institution can be appropriated only by the Trustee(s), upon the sanction given by the 2nd respondent. The sanction by the 2nd respondent is to be granted after the procedure prescribed by the Utilization of Surplus Funds Rules, which came into force vide G.O.Ms. No. 4524, Revenue, dated 05.11.1960, is duly carried out. Reference to the connected provisions postulate that the trustees have to make adequate provisions for certain mandatory expenses and have to ensure that the preference in funds appropriation is adhered to as per Sections 66(1)(a) to (g) of the Act and to the denominations to which the religious institutions belong. I respectfully submit, that Sections 36-A and 36-B are provisions of similar nature, for utilization towards specific purposes.

25. I respectfully submit that the 2nd respondent has a duty to ensure that adequate provisions towards budgeting are made by the Trustees of Hindu Religious Institutions as contemplated under Section 86(2) of the Act and also for the arrangements and the training referred under Section 35(1) of the Act, before calculating the 'Surplus Funds'. I further submit that before according sanction under Section 36 of the 1959 Act, the 2nd respondent herein shall publish the proposal of the trustee in such manner as may be prescribed including publishing of a notice in a leading newspaper to invite objections or suggestions with respect thereto from persons interested within not less than 30 days of publication of such notice and consider all of them before sanctioning the proposal. The 2nd respondent, upon granting sanction for appropriation of surplus funds ought to publish the same in the manner prescribed.
26. I respectfully submit that, the problem however is that, in many temples, (as averred in detail above), no such trustees have been appointed and in various instances, the monies of the temples are sought to be utilised by the HR & CE Department by issuing circulars, and predetermining proposals, without following due processes laid down under the Act and Rules.
27. I further respectfully submit, I am advised to state that two Constitutional Benches of the Hon'ble Supreme Court, in the Shirur Mutt Case, reported in AIR 1954 SC 282 and Ratilal Panachand Gandhi Case, reported in AIR 1954 SC 388, have held that vesting of administration of Hindu Religious Institutions in the hands of secular or other authorities is unconstitutional and thereby the appointment of servants of 2nd respondent or anyone else as Fit Persons for a period beyond 3 months is also ultra vires the proviso to Rule 2(1) of the Functioning of Board of Trustee Rules, (G.O. M.S. No. 4524, Revenue dated 05.11.1960 as amended by G.O. Ms. No. 275 C.T. & R.E. dated 13th August



1979 and G.O. Ms. No. 275 C.T. & R.E. dated 16th July 1997). Hence, in Temples where there are no hereditary trustees or non-hereditary trustees, no funds ought to have been appropriated under Section 36 of the Act, even by stating to follow the due process prescribed under Section 36 of the 1959 Act.

28. I respectfully submit a few illustrative instances, such as in the case of Sri Dandayuthapani Swami Temple in Palani, details recieved under Right To Information Act in respect of the period 01.07.2016 to 30.06.2017, reveal that an amount of Rs. 15,00,000/- was spent for Computerisation of the H.R. & C.E. Department, Installation of CCTV cameras for the Mahamaham Festival, sent to the Department for payment of pensions (understood as employees of the department) renovation of some village temples etc. Another instance relating to Arunachalaeshwarar temple, Tiruvannamalai shows that the funds of the Temple was used for painting of the Joint Commissioner, HR & CE Office, Chennai. There are certain glaring instances, that have been done purportedly under Section 36. Illegality of the purposes apart, what is glaring in that, in no case, as per the Utilisation of Surplus find Rules, publication of the transfer proposals have been done, objections have been called for etc. The above 2 instances are only illustrative and by no means exhaustive.

29. I respectfully submit that, the more recent instances, were, in the case of an attempt by the respondent department to obtain 10 crores rupees from certain specified temples, by predetermining the amount, each temple was to contribute, citing COVID relief and transfer the same to the Chief Minister's relief fund. The petitioner and 2 others had challenged the said move of the Respondent department made vide circular dated 22nd April 2020. The grounds raised therein were similar to the ones raised here, primarily that, in the absence of trustees, one cannot utilise surplus funds, the Commissioner HR & CE

cannot be the initiator of the proposal, and prior publication was mandatory, apart from the fact that the purpose of transfer was not covered under Section 36-B, a provision with a similar intent as Section 36. The 2nd Respondent however withdrew the circular during the pendency of the writ petition and hence the same was closed.

30. I respectfully submit that, while, it was hoped that, no such repetition would be made, I was shocked to learn that the Respondent department now proposes to start a TV channel utilising the funds of Hindu Temples that are under its control. It is submitted that the said proposal also runs rough with the provisions of the 1959 Act on several counts, including in regard to the utilization of surplus funds submitted above and more particularly the utilization of common good fund, which is narrated immediately below.

(ii) **Transfer Of Funds To Commissioner's Common Good Fund:**

31. I respectfully submit that under Section 97 of the 1959 Act, the Commissioner (the 2nd respondent) is directed to create a Fund to be called the "Hindu Religious and Charitable Endowments Common Good Fund" out of the contributions voluntarily made by the religious institutions from their surplus funds or by any person for the renovation and preservation of needy temples and their building and paintings, for the promotion and propagation of tenets common to all or any class of religious institutions and for any of the purposes specified in sub-section (1) of section 66. This Fund, in common parlance, and in the Respondent Department is known as the "Commissioner's Common Good Fund". It is necessary to emphasise that the provision contemplates, contribution on a 'voluntary' basis by religious institutions and it is submitted that the same is a prerequisite. However, it is seen from experience that the office of the 2nd respondent is in the habit of issuing communications/directions



to such religious institutions, to contribute to the fund, which in effect, betrays the intent of the provision to have a 'voluntary' contribution. This coupled with the absence of Trustees, is lethal to the financial independence of the religious institutions, which is envisioned under the Constitution and to an extent carried out in the 1959 Act. From the reading of the various directives issued from the office of the 2nd respondent, it is apparent that, the manner in which funds are collected, is not voluntary; is fixed arbitrarily by the 2nd respondent or the Regional Joint Commissioners serving under him; and the funds that are primarily meant for renovation to be undertaken in ancient Hindu Temples and for other unsanctioned purposes including expenses of Hindu Religious and Charitable Endowments Department.

32. I respectfully submit that, to cite an instance, a communication dated 21.10.2015, Ref No. 54794/2015/C1 of the 2nd Respondent to various Joint, Deputy and Assistant Commissioners and Executive Officers, making it mandatory to allocate amounts in their budgets and send such amounts to the "Commissioner's Common Good Fund". A document of the respondent department titled as "Podhu Nala Nidhi Ketpu" (Common Good Fund Demand) for the Financial year 2016-17 lists out the amounts allocated from various temples, the amounts received from allocation and pending amounts. This clearly shows that the respondent department in a coordinated and systematic manner has been appropriating funds from various temples/religious institutions to the Common Good Fund only as an amount "fixed and demanded" and not as a voluntary contribution by the true Trustees of the Hindu Religious Institution. From the fact that there has been collection of dues, and follow ups, show that the entire requirement of "voluntary" is done away with. Secondly with the appointment or placement of Executive Officers



in various crucial temples, the respondent department can take any money at will and appropriate towards it, from all such temples.

33. I respectfully submit that, the other instances that have been identified through RTI Applications are enclosed in the typed set of papers. To cite another example, in a reply from the 2nd respondent given to Mrs. V.S. Chandralekha I.A.S (Retd), the department clearly replies that, amounts towards Common Good Fund are received through budgetary allocations. The actual vernacular term பெறப்படுகின்றது (“Perappadugirathu”) rather implies obtained, considering the entire conspectus of circumstances.

34. I respectfully submit, I am advised to state that a plain reading of “the *Administration of the Hindu Religious and Charitable Endowments Common Good Funds Rules, 1962*” reveal the following:

- (i) Commissioner decides on applications made by an institution seeking aid; i.e. grants or financial assistance or given only to Hindu Religious Institutions requiring such assistance and the Commissioner is the approving authority.
- (ii) Commissioner can give approval only after inviting objections or suggestions and after publishing such proposal.
- (iii) Rule 4(b) clearly shows that only a Hindu Religious or Charitable Institution coming under the jurisdiction of an Assistant Commissioner or Joint/Deputy Commissioner of the HR & CE Department is eligible for such grant or financial aid from the Common Good Fund.

35. I respectfully submit that, the available information reveal that, the existing practice is completely to the contrary. Once the Budgetary allocations are sought to be made, pursuant to directions of the Commissioner, it manifests as a clear case of rules and procedure being thrown to the winds. I respectfully



submit that, in this context, even the latest proposal to start a TV channel, and manner in which, the funds are sought to be arranged from the Commissioners Common Good Fund, is impermissible under the provisions of the 1959 Act.

36. I respectfully submit that from the year 2011, no trustees have been appointed in temples which are to be administered by non-hereditary trustees. Therefore, no funds could have been transferred to the Common Good Fund. Further, the three communications from the Commissioner/his office which are part of the typeset papers show beyond doubt that every contribution to the Common Good Fund has been in violation of the due process laid down therefor since they have not been voluntary, they have been pre-determined by the Commissioner or the Joint Commissioner while approving annual budgets for the religious institutions and they have been sent to the Commissioner without calling for objections from the persons interested and even without publishing the notices as required under law.
37. I respectfully submit that since the Commissioner is the authority who approves the applications from religious or charitable institutions seeking aid or financial assistance from the Common Good Fund, he himself cannot propose granting aid or financial assistance from the said fund. This goes against the dictum of the Hon'ble Supreme Court of India laid down in Govinda Menon vs Union of India (AIR 1967 SC 1274).
38. I respectfully further submit that a plain reading of Section 97 shows that the funds to be appropriated from the Hindu Religious Institutions for the purpose of contributing to the Commissioner's Common Good Fund are to be only from the "Surplus Funds" of the religious institution concerned. Therefore, every contribution to the said Commissioner's Common Good Fund should follow



the due procedure prescribed under Section 36 of the 1959 Act before following the procedure prescribed under Section 97.

39. I respectfully submit that the Rules prescribed under Section 97 clearly show that funds from the said Commissioner's Common Good Fund can be given only to a Religious Institution in need of aid and coming under the jurisdiction of the Assistant Commissioner or the Joint Commissioner of the HR & CE Department and no transfer of moneys or funds can be made from the said Common Good Fund to any other institution including the HR & CE Department or any entity started by it or belongs to it.

40. I respectfully submit that in these circumstances, the manner in which the Respondent department is appropriating the funds of the religious institutions,

(iii) Misappropriation Of Funds For The Purposes Of The Office Of The Commissioner, Offices Of Regional Joint Commissioners And For The Minister Of Hindu Religious And Charitable Endowments Department:

41. I respectfully submit that upon obtaining information under the Right to Information Act and other known sources, it is found out that there have been instances of gross mis-appropriation of Hindu Temple Endowment funds by the respondents and their respective instrumentalities functioning under them, for the purposes alien to the benefit of temples and endowments and purposes that are not sanctioned under the 1959 Act and its allied Rules. I have enclosed a list of Temples in which such misappropriations of funds have occurred, without following due process laid down under Section 36 of the 1959 Act and I crave leave of this Hon'ble Court to treat the same as part and parcel of this affidavit.



42. I respectfully state that, apart from what has been stated above, there are also instances where the office of the 2nd respondent and his subordinates in the Hindu Religious and Charitable Endowments Department have indulged in arbitrary and unsanctioned appropriation of funds. It is further important to note that supply of food and beverages and other miscellaneous purchases have been made from the Temple funds, for the meetings conducted in the office of the 2nd respondent. It is also found out that Innova cars have been purchased using the funds of Sri Karumariamman Temple, Thiruverkadu for the use of the Minister of Hindu Religious and Charitable Endowments Department and his assistant. There are about 10 vehicle drivers who are employees of various Temples, who are however being exploited by the 2nd respondent officials and made to work in the Headquarters of Hindu Religious and Charitable Endowments Department and their regional offices and even as drivers for the Minister of the Hindu Religious and Charitable Endowments Department.
43. I respectfully submit that it was also shocking to learn that, as on date 14 persons who were "recruited" as typists by 13 temples across Tamil Nadu, are working as "typists" in the office of the 2nd respondent in Nungambakkam, Chennai. Replies to the applications filed under the Right to Information Act, 2005 to the respective temples regarding the said typists uniformly show that these typists were actually taken into service by the Office of the Commissioner, Hindu Religious and Charitable Endowments Department i.e. the office of the 2nd respondent with directions given by the 2nd respondent to the respective temples to pay the monthly salaries of the said typists from the funds of the temples.
44. I respectfully submit that besides the above instances of misappropriation and abuse of funds of Hindu Religious Institutions that are under the administrative



control of the respondents herein, there are numerous instances where temple money is used with impunity to meet the expenses of the Offices of the Commissioner, the Regional Joint Commissioners and the Hindu Religious and Charitable Endowments Minister.

45. I respectfully submit that citing a communication from the 2nd respondent, viz., R.C. 36773/K2/dated 29.08.2016, the then Executive Officer of Sri Sankaranarayananaswamy Temple, Sankarankoil, sent a Demand Draft drawn on Chennai for Rs. 78,750/- (Rupees Seventy Eight Thousand Seven Hundred and Fifty only) for the purchase of a Photocopier machine for the office of the 2nd respondent. This demand draft was sent on 01.09.2016 i.e. within 2 two working days after receiving the communication. At this juncture, it is reasonable to comprehend that none of the process laid down under Section 36 or the Rules framed thereunder were followed. In any case, the purpose of buying a photocopier would not come under any of the sanctionable purposes stated in Section 66 of the 1959 Act.
46. I respectfully submit that it was also found that a car belonging to Sri Kamakshi Amman Temple, Mangadu, Kanchipuram District was used as the Commissioner, HR & CE's vehicle and the fuel expenses for the said car has been claimed from the Temple funds month after month 2011 - till date. It is also learnt that a fully-loaded Innova Car bought using the funds of Sri Kapaliswarar Temple is being used by the Minister of the Hindu Religious and Charitable Endowments Department for years now. The fuel expenses of the car for the usage of the said Minister is found to be met by the said Temple. Apart from the same, the other officials of the 2nd respondent are also found using the resources of Temples for their personal purposes. The said act of the 2nd respondent and other officials is illegal and all officials who have been



indulging in such mis-appropriation of Temple funds are liable to be prosecuted under Sections 108, 109, 120B, 405, 406, 408 and 409 of the Indian Penal Code.

47. I respectfully submit that a plain reading of Section 87(4) of the 1959 Act shows that only temples having less than Rs. 1000/- (Rupees One Thousand only) as the annual income can be audited internally. The 1st respondent issued a G.O. Ms. No. 187, Commercial Taxes and Religious Endowments Department, dated 18.02.1976, by which audit of the accounts of all religious institutions and charitable endowments under the Control of the Hindu Religious and Charitable Endowments Administration Department shall be done by independent audit-wing created in the said Hindu Religious and Charitable Endowments Department and the said audit wing would be under the immediate control of a Chief Audit Officer and under the ultimate control of the Commissioner, Hindu Religious and Charitable Endowments Department i.e. the 2nd respondent herein.
48. I respectfully submit that this is a very convenient arrangement crafted by the respondents herein which facilitates, pushing under the carpet, the financial illegalities like the transfer or utilisation of Hindu temple funds for purposes not sanctioned by law and/or without following the due process therefore which are continuously carried out, committed by the respondents herein and their subordinates working in the Hindu Religious and Charitable Endowments Department. Further, the number of audit objections pending resolution from the year 1986 is a staggering 1.3 million. In these circumstances, it is humbly submitted that the illegal transfers of monies of Hindu Temples would never be corrected if it is merely left to the respondents herein and requires intervention of, course correction and monitoring by Court.



49. I respectfully submit that the said Appointment of Auditor Rules has been challenged before the Hon'ble Supreme Court of India in W.P. (Civil) 1432 of 2019. However, the question of validity or otherwise of the said Rules are not immediately relevant to this Writ Petition. Suffice it to say that the very office of the Chief Audit Officer in the Hindu Religious and Charitable Endowments Department has itself utilised the funds of three different Hindu temples in Chennai to centrally air-condition its office. Further, the transfer of funds of Hindu Temples for non-temple purposes or the failure of observance of due process therefore are hardly reported as audit objections by the internal auditors of the Hindu Religious and Charitable Endowments Department. The petitioners reserve their right to file a separate writ petition in this regard to this issue seeking external Audit of Hindu Religious Institutions as required under law. .
50. I respectfully submit that on an overall appreciation of the circumstances, it is apparent that on account of the servants of the 2nd respondent department functioning as 'Fit Persons' in Hindu Religious Institutions and the Executive Officers running the day to day affairs, it appears as if the Hindu Religious Institutions are acting as mere extensions of the 2nd respondent department. The respondents have abused their position by appointing the department servants as 'Fit Persons' and have directly led to misappropriation of Temple funds and properties.
51. I respectfully submit that, the instances that are unearthed are numerous and only leads to the inference, they would be but, a tip of the iceberg. I respectfully submit that, this is a case that requires comprehensive directions to rectify the situation, not restricted to questioning independent instances alone.



52. I respectfully submit that I had sent a notice to the respondents on 27.08.2018, stating all the details of misappropriation of funds belonging to Hindu Temples and other institutions under their administrative control. The Notice was received by the respondents, but the same fell on deaf ears. In spite of receiving the said Notice, the respondents are still indulging in the misappropriation of the Temple funds. They have not even cared to reply to the Notice or even acknowledge the Notice but only maintained a stoic silence. Hence, I was constrained to issue yet another Notice dated 27.01.2020, wherein I have categorically explained the manner in which the funds of the Temples have been misappropriated. The said Notice was duly received by the respondents, but the respondents did not choose to reply. I respectfully submit that in the said notices, I had brought to the attention of respondents apart from the instances of violation, the illegality of the manner in which they are dealing with the funds and called for rectification of the methods and auditing of the various instances pointed out through an external agency. The said Notice was duly received by the respondents, but the respondents, as before, did not choose to reply or correct their misdemeanors and irregularities.
53. In the circumstances, as already stated above, a proposal under section 36-B to utilize surplus funds of earmarked temples to transfer to TN Chief Ministers fund citing Covid-19 was made. Drawing attention to all the previous notices, I once again called upon the respondent department to withdraw the proposal vide notice dated 28.04.2020 and also challenged the same by way of a writ petition, which was closed subsequently, pursuant to withdrawal of the circular.
54. I respectfully submit that in the meanwhile the respondents once again proposed to start a TV Channel utilizing funds of various temples once again in an illegal manner, without following the necessary requirements laid down



under the law as learnt from of the 2nd respondent addressed to the 1st respondent dated 03.06.2020 no. 51082/K3/2018. I respectfully submit that as already averred above the aforesaid action can neither be done under S. 36 nor under Section 97 relating to Common Good Fund. The petitioners reserve their right to question the aforesaid step independently, depending on the progress made and after thorough examination of the matter.

55. Now, one another communication from the 2nd Respondent in R.C. No. 42275/2019/Q.1 dated 26.06.2020 directs the various Executive Officers of the temples mentioned in the said communication to upfront send the amount mentioned against each temple in the communication and later send proposals for obtaining approval of the 2nd Respondent. This is patently illegal and one another feather in the cap of the HR & CE department in not following the procedures laid down under the HR & CE Act 1959 and rules made thereunder. While, refraining from commenting on the merits of the proposal for the present, it is necessary to state that, irrespective of the motive or merit of the proposal, the procedure that is mandatory under law, ought to scrupulously followed.
56. I respectfully submit that, the petitioners to the extent they have been able to collect information, have utilised the Right to Information Act 2005. In most cases, however the experience has been stonewalling and provision of irrelevant answers or to avoid answering has been the response of the department, when it comes to providing information. Further the petitioners reserve their rights to raise additional grounds, provide additional documents, and file an additional affidavit in regard to more instances that come to light, in the nature of ones narrated above.



57. I respectfully submit, as the 2nd Respondent department has not taken action on any of the representations made, and rectified the illegalities or stopped perpetuating any further, and therefore being left with no other remedy, the petitioners are approaching this Hon'ble Court, for various reliefs prayed below, on the following among other grounds.

GROUNDS

- A. "The State" under the Indian Constitution and its instrumentalities being secular in character cannot deal with or appropriate the funds of religious institutions and can only regulate the financial aspects connected with religious institutions. The actions of the respondents as demonstrated above are contrary to the fundamental principle of separation between the State and Religious institutions, i.e. by directly dealing with and controlling the funds of Hindu religious institutions.
- B. Funds and properties of the temples vest in the respective deities and cannot be utilized in a manner that is detrimental to the institution of the deity. The several instances of unauthorised and illegal transfers and misappropriation of funds for purposes other than authorised under the Act as well as for the benefit of the deity or the religious institution is a clear contradiction of the fundamental principles in dealing with finances of religious institutions.
- C. The actions of the respondents in the various categories demonstrated above, such as unauthorised transfers, non-following of procedures prescribed under statutes and rules and for unauthorized purposes are violative of Art. 14 , Art.25, Art.26 , Art.27 and Art.300-A.

Specifically On The Utilisation Of Surplus Funds In The Absence Of Regular Trustees



- D. The HR & CE Act 1959 contemplates utilization of surplus funds by trustees religious institutions with the previous sanction of the Commissioner. The said powers under S.36 , 36-A or 36-B can be invoked only by the trustees of the temple and in the absence of trustees being appointed no other person can invoke the powers of the trustees vested under the aforesaid provisions.
- E. "Fit persons" are only temporary persons who act pending the constitution of the board of trustees cannot perform the full time of the trustees. The fit persons in many temples having been functioning for more than the tenure of the trust board itself, the continuation of fit persons is contrary to the scheme and intention of HR&CE Act and consequently violative of Article 14 also. In such circumstances, permitting such fit persons to exercise functions of trustees in regard to the utilisation of surplus funds is a fraud on the provisions of the HR & CE Act 1969.
- F. The 1st respondent in G.O.Ms.No. 223 dated 10.06.2011 and G.O.Ms.No. 264 dated 11.07.2011 have clearly specified that the fit persons can be appointed only to carry out very essential matters of the Temple viz., pooja expenses and salaries. In the circumstances any action or decision to permit the 'Fit Persons' to exercise the powers of trustees, unspecified therein will therefore be contrary to the very government Order under which they are appointed and ultra vires.
- G. Despite the pendency of W.Ps No. 11412 and 11413 of 2015 challenging the continuation of fit persons, the actions of the respondents in running institutions through fit persons and without appointing regular trustees, though committed on affidavit before Court is clearly in contravention of the act , rules, law & order and Article 14 of the Constitution.



H. The Utilization Of Surplus Fund Rules along with the provisions of the Act require public notice calling for objections on any particular proposed utilization. Prior to utilization of the surplus fund there is no such known instance of calling for objection by public notice before such decisions are being taken. The said action is clearly arbitrary and contrary to the provision of the Act and the rules and violative of Article 14 of the Constitution.

I. The proposal for utilization of a surplus fund must always originate from the trustee of the temple/religious institution. Such a proposal cannot be invited by the 2nd respondent or his office as he himself is the sanctioning authority who has to sit on decision over those proposals after having considered all the objections made to it. Any action therefore to call for funds to be sent by religious institutions are illegal, arbitrary and violative of Article 14.

Specifically on Transfer Of Funds To Common Good Fund

J. Section 97 of the HR & CE Act contemplates a Common Good fund to be created by the Commissioner to receive voluntary contributions by religious institutions from their surplus funds and by any person for the renovation or preservation of needy temples or for propagation of tenets of the religious institutions and for purposes specified under S. 66(1). It is clear from the language of the said provision that no one can be directed/instructed/made to make contribution and such contribution should be voluntary.

K. Various communications of the 2nd respondent and manner in which funds have been budgeted/used/collected etc. goes on to show that religious institutions have been made to contribute sums contrary to provisions of that Act as well as the Constitution. The said provisions are mandatory and any transfer done in violation of the same, is to be treated as voidable.



- L. The entire process/exercise is in contraventions of The Administration of the Hindu Religious and Charitable Endowments Common Good Funds Rules, 1962, as per which the trustees must send proposals, and after calling for objections from the public by publishing the proposals, sanction could be accorded by the 2nd Respondent.
- M. The actions of the 2nd respondent in requiring temples without regular trustees (having "fit persons") to contribute to the common good fund cannot be deemed to be a voluntary contribution as the religious institution is not in a position to take an independent decision as to how its funds to be utilised and therefore requiring such contributions is clearly contrary to the provisions of the Act and the Constitution, namely Articles 14, 25, 26 and 27.
- N. Considering that a number of "fit persons" are employees of the respondent department itself establishes them as an extension of the department itself and not authorities independent of the 2nd respondent. In the circumstances the checks and balances that are contemplated under the Act becomes obliterated and every action arbitrary and a violation of Article 14.
- O. As laid down in the Administration of the Hindu Religious and Charitable Endowments Common Good Funds Rules, 1962 The 2nd respondent is a sanctioning authority, and he does so after inviting objections or suggestions and after publishing such proposal. Therefore the sanctioning authority himself initiating proposals or non-following of the mandatory requirement of hearing is a blatant violation of the Rules.

Specifically on Inaction Over And Indulgence In Illegal Misappropriation Of Funds

- P. The respondents are bound in law to utilise the funds in the manner beneficial to the temple deity and not to its detriment. the respondents exercise such power

(assuming to be valid) in trust of the deity and temple and any action which does not subserve the purpose of such fund amounts to misappropriation of such funds.

- Q. The instances narrated in paragraphs 42 to 48 and the documents filed in the typed set will go on to show that there are multiple instances of misappropriation and no action under law has been taken by the officials, who are appointed with such duties, who in some cases are active participants of this illegality.
- R. Instances such as purchase of cars utilizing funds of temples for the use of officials, furnishing the respondent departments office, tea and snacks for meetings, construction of structures unconnected with the religious institutions etc. are not merely unauthorised and illegal acts contrary to the provisions of the HR & CE but also constitute crime under the Indian Penal Code.
- S. From the instances of unauthorised transfers, arbitrary exercise of powers, inaction in dealing with cases of misappropriation brought to the attention of the 2nd respondent, the 2nd respondent has clearly failed its obligations under S. 23 of the HR & CE Act, 1959.
- T. The respondents have taken no action despite the legal notices issued by the petitioner dated 27.08.2018 & 27.01.2020. The action of the respondents in misappropriating and not taking necessary actions under law is an arbitrary exercise of power, in contravention of provisions of the HR&CE act and rules laid there under and the constitution itself.
- U. The overall reflection of the circumstances, points out flagrant violations and abuse of powers, violating Article 14 of the Constitution, trampling of denominational rights under Art 26 and in effect operating as a Tax on religion, violating Art 27 and Art 29 too.

58. I have a fair chance of success in the above Writ Petitions and pending disposal of the same if the respondent continues to perpetuate the illegalities, serious prejudice will be caused to all concerned. In the circumstances it is just and necessary that certain interim directions are passed to protect the interest of the institutions and the general public.

INTERIM PRAYER

59. In the circumstances it is there prayed that this Hon'ble Court may kindly be pleased to
- A. issue an order of interim injunction restraining the 2nd respondents herein from initiating or sanctioning any transfer or utilisation of funds under Section 36, 36-A or 36-B of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, pending disposal of the writ petition and thus render Justice.
- B. issue an order of interim injunction restraining the 2nd respondent herein from initiating or approving any transfer to or utilisation of funds under Section Section 97 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and thus render Justice.
- C. issue an interim direction directing external audit into all the cases of funds being transacted under Sections 36, 36A, 36B and 97 in the name of surplus funds and to the Common Good Fund and examine and produce a report before this Hon'ble Court pending disposal of the Writ Petition and thus render justice.
- D. issue an interim direction to the respondents herein calling upon them to produce the details of persons whose salaries and wages are paid by Hindu



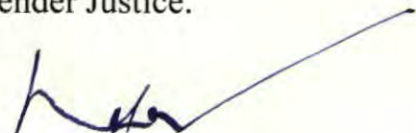
Temples or Endowments but where such persons are, after 01.04.2011 working in the Offices of the 1st and 2nd respondents or in the Regional Offices of the Hindu Religious and Charitable Endowments Department pending disposal of the Writ Petition and thus render justice.

- E. issue an interim direction appointing a special committee to look into and identify the various illegal transactions/transfers by the officials of the respondent department and provide a report to the court pending disposal of the Writ Petition and thus render justice.
- F. Issue an Interim Direction directing the 2nd respondent to provide details of all sanctions provided under Section 36, 36-A,36-B and in relation to Section 97 of the Hindu Religious and Charitable Endowments Act 1959, pending disposal of the above writ petition and thus render Justice.

PRAYER

60. It is therefore humbly prayed that this Hon'ble Court may kindly be pleased to issue:

- a) A Writ of Mandamus or any other appropriate Writ or Order or Direction in the nature of a Mandamus forbearing the Respondents from transferring of funds or utilisation funds of Hindu Religious Institutions in the absence of Hereditary Trustees or Trustees duly appointed and having due qualifications under Section 25-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and unless after complying with the due process therefore, laid down in Section 36 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and prescribed in the Utilisation of Surplus Funds Rules 1960 framed under the said 1959 Act and pass any such further or other orders as this Hon'ble Court may deem fit in the facts and circumstances of the case and thus render Justice.



- b) A Writ of Mandamus or any other appropriate Writ or Order or Direction in the nature of a Mandamus forbearing the Respondents from transferring or utilisation of the funds of Hindu Religious Institutions to the Common Good Fund Constituted under Section 97 of the Hindu Religious and Charitable Endowments Act 1959 in the absence of Hereditary Trustees or Trustees duly appointed and having due qualifications under Section 25-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and unless after complying with The Hindu Religious and Charitable Endowments Good Fund Rules 1962 framed under the said 1959 Act and pass any such further or other orders as this Hon'ble Court may deem fit in the facts and circumstances of the case and thus render justice
- c) A Writ of Mandamus directing the respondents to initiate enquiry into the various instances of misappropriation of funds of religious institutions under the control of the 2nd Respondent Department and take appropriate legal action against the erring officials and recompense the religious institutions, the amounts misappropriated and pass any such further or other orders as this Hon'ble Court may deem fit in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Chennai on this

The 17th day of July 2020 and

Signed his name in my presence

Before Me

Kattar Adar
Enl. No. 308/1973
Advocate, Chennai

**IN THE HIGH COURT OF JUDICATURE
AT MADRAS**

(SPECIAL ORIGINAL JURISDICTION)

W.P No of 2020

AFFIDAVIT

**M/s G.R. ASSOCIATES
ROC/3935/04/F2**

**Niranjan Rajagopalan
MS 2915/2012**

**Abhinav Parthasarathy
MS 2606/2013**

**Ranjitha V
MS 2976/2018**

COUNSEL FOR PETITIONER

Ph. 9381803616

Court Fees Stamp affixed
For Rs. 60

WP. No. 2020

Application for Service of process

1st and 2nd

Respondents

Name	Father's Name or if minor Name of guardian	Occupatio n if any	Residence		
			District	Taluk	Village or town of town St & door no.
<p>1. The State of Tamil Nadu Rep. by its Secretary, Department of Tourism, Culture and Religious Endowments Department, Secretariat, Fort St. George, Chennai – 600 009</p> <p>2. The Commissioner Hindu Religious & Charitable Endowments Department 119, Mahatma Gandhi Road, Nungambakkam Chennai – 600 034.</p>					

Ranjitha

M/S. G.R. ASSOCIATES
111-A CHAMBERS, HIGH COURT
COMPLEX, MADRAS H.C.
COUNSEL FOR PETITIONER

HIGH COURT: MADRAS

1st Notice 2nd Notice 3rd Notice

Date of Hearing

Notice Issued

Notice Returned

WP.No.

of 2020

Respondent 1

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BATTA Rs 60

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M/S G.R. ASSOCIATES

NIRANJAN RAJAGOPALAN

ABHINAV PARTHASARATHY

RANJITHA V

COUNSEL FOR PETITIONER