

13-Aug-2021

To:

Dr. B. Chandra Mohan I.A.S.,
Principal Secretary to Government
Tourism, Culture and Religious
Endowments Department
Government of Tamil Nadu
Secretariat
Chennai 600009

Dear Sir,

Sub: Appointment of an Officer of the HR&CE Department as the "Fit Person" of **Sri Subramaniaswamy Temple, Tiruttani** - Downright illegal, unconstitutional, arbitrary and unethical - Unabashed and chronic practice of Government Secretaries to violate Constitution, laws and Dicta concerning Fundamental Religious and Administrative Rights of Hindus belonging to various Sampradayas - Appointing a servant of HR&CE Department as the "**Fit Person**" of Tiruttani Sri Subramania Swamy Temple - An Ancient, Sampradayic Temple is a **fraud** on Constitution and the TN HR&CE Act, 1959 - Recommendations of the Commissioner regarding such appointments are fraught with falsehoods and illegalities - Government accepting such recommendations smacks of imbecility and insouciance - You are called upon to cancel the G.O. Ms. No. 105, Tourism, Culture and Religious Endowments (R.E. 3-1) dated 05.08.2021 and appoint **Qualified Hindus** belonging to the Sampradaya of Tiruttani Temple and belonging to the locality as mandatorily required under Section 25-A of the HR&CE Act, 1959 - **Notice Issued** - regarding.

- Ref:**
- 1.** G.O. Ms. No. 105, Tourism, Culture and Religious Endowments (R.E. 3-1) dated 05.08.2021
 - 2.** Commissioner, Hindu Religious and Charitable Endowments Department Letter R.C. No. 53324/2020/A1 dated 24.05.2021 cited in reference 1 above.

- A.** You are the Principal Secretary to Government Tourism, Culture and Religious Endowments Department.
- B.** I am the President of Indic Collective Trust and Temple Worshippers Society and I issue this notice to you.
- C.** Sri Subramania Swamy Temple, Tiruttani is one of the most important Sri Subramania Shrines. It is the prime one of the *Kundruthor Aadal* abodes of the *Aatruppadai* Temples of Sri Skanda. The temple follows Karana, Kamiga and Kumara Tantra Agamas and the temple belongs to the sub-sect (*Anubagham*) of Saivite Sampradaya (Denomination). The temple and its religious practices are protected under Article 26 and 29(1) of the Constitution of India.
- D.** This being a denominational temple, the TN HR&CE Act vide Section 107 of the said Act, forbids the instrumentalities of the HR&CE Department from passing any orders which would be violative of the rights guaranteed to the denomination of the temple under Articles 26 of the Constitution of India.
- E.** However, the Government and the HR&CE Department continue to hold this temple (and 1000s of other such denominational temples) under their vise-like grip through chronically abhorrent practice of issuing orders that are fraud on the fundamental Religious and Administrative rights of Hindus and on the Constitution of India and the TN HR&CE Act, 1959.
- F.** To **illustrate a few of such frauds** that took place in Tiruttani temple I record the following:
- i.** On 14.06.1937 Tiruttani Sri Subramaniaswamy Temple was notified under Section 65-A of the Madras Hindu Religious Endowments Act, 1926 (Act II of 1927). Such notifications were declared unconstitutional by an Hon'ble Division Bench of Madras High Court by its order dated 13.12.1951 and reported in 1952 I MLJ 557. The said unconstitutionality was confirmed by a seven Judge Bench of the Hon'ble Supreme Court of India by its order reported in AIR 1954 SC 282 (Shirur Mutt Case) and by another Five Judge Constitutional Bench in Civil Appeal 39 of 1952. Stung by the Court's verdict, the then Government and Commissioner of the HR&CE Department behaved like thieves stung by a scorpion and maintained stoic silence. They did not handover the notified temples back to those administrators from whose hands they were taken over.

In 1956, Government issued G.O. Nos. 3069, 3374 and 3518 by which about 60 notified temples were sought to be "in force" for 5 more years. Hon'ble Supreme Court by its order dated 10.02.1965 (**AIR 1965 SC 1578**) struck down G.O. 3069 and Government felt the force of the order and brought in amendments in the TN HR&CE Act, 1959 by introducing Sections 75-A, 75-B and 75-C in the said Act seeking to "extend" the notifications by one more year. This was the **beginning of major frauds by the Government and the HR&CE Department against Hindu temple devotees.**

- ii. In the meantime, in 1956, for Tiruttani Sri Subramaniaswamy Temple, the HR&CE Department indulged in **yet another fraud** by seeking to amend the Scheme framed for the said temple, conveniently hiding the fact that the temple scheme became obsolete, the moment the temple was notified i.e. on 14.06.1937. The amended scheme was further sought to be modified under Section 64(5) in 1961 and **this time the fraud was to seek the appointment of an Executive Officer** through the said scheme, which was **a power not vested under the said Section 64** of the 1959 Act. However, no Executive Officer was appointed and there functions now a servant of the HR&CE Department **fraudulently** claiming to be the Executive Officer of this denominational temple.
- iii. One Mr. Aludaiyapillai who was Commissioner and Secretary to Government, Religious Endowments Department, signed a Government Order Ms. No. 358 C.T. & R.E. dated 29.03.1983 by which Government declared its "change of policy" of appointing "official Fit Persons" instead of "non-official Fit Persons". **This is pure fraud on the TN HR&CE Act, 1959** by which secular servants of the HR&CE Department were vested with the Administration of Hindu Temples by replacing the Board of Trustees/ Fit Persons who were devotees and non-governmental persons.
- iv. Government issued G.O. Ms. No. 281 Commercial Taxes and Religious Endowments Department dated 09.03.1988 appointing the non-est Executive Officer of Sri Subramaniaswamy Temple as the "Fit Person" of the very same temple. **This was a super fraud perpetuated by**

Government on the TN HR&CE Act, 1959 and the devotees of Sri Subramaniaswamy Temple, Tiruttani.

- v. Many individual, ancient and heritage temples like Sri Vataranyeswarar Temple, Tiruvalangadu - a *Panja Bhooda Sthalam* and *Tevara Sthalam* and Sri Deivanayageswarar Temple, Ilambayamkottur, another *Tevara Sthalam* and Sri Vaachiswarar Temple, Tirupachur another *Tevara Sthalam* and Pallava period temple, which have substantial properties in their names, were made sub-temples of this temple **which is a fraud on Articles 25, 26 and 29(1) of the Constitution and fraud on the Places of Worship Act, 1991**. A total of 30 temples were thus alienated from the local communities who have the religious duty of maintaining them by making them sub-temples of Tiruttani Sri Subramaniaswamy Temple.
- vi. Many fraudulent transfers of funds took place from Tiruttani Sri Subramaniaswamy Temple before the year 2012. The purposes of these transfers were totally alien to the purposes of the temple. **One such fraud is the transfer of the temple funds for building a library in the Office of the Commissioner** of HR&CE Department vide Commissioner Proc. R. C. No. 34093/2011/Y1 dated 16.11.2011
- vii. Another **humungous fraud carried out using Tiruttani temple funds was the renovation of the Office of the Commissioner at a cost of Rs. 50.00 lakhs** vide Commissioner R. C. No. 49206/2005/Y2 dated 24.06.2006
- viii. In the year 2012, government issued G.O. Ms. No. 158 Tamil Development, Religious Endowments and Information (R.E. 3-1) Department dated 19.06.2012 by which Government appointed a Hindu Citizen Mr. V Jaishankar S/o Shri Vedanarayanan Pillai as the Fit Person of Sri Subramaniaswamy Temple, Tiruttani for an interim period i.e. till Board of Trustees were constituted. Here too Government committed **a fraud against the Statute and Hindus** since the Interim period was more than 4 times the actual period for which a Board of Trustees could be appointed. The tenure of a validly constituted Board of Trustees under Section 47 of the 1959 Act is only two years.

- ix.** After Mr. V. Jaishankar was made a "Fit Person" for an "interim period" (which is proscribed to 90 days under proviso to Rule 2 of the Functioning of Board of Trustees Rules) **many frauds took place in the temple.** Transfer of Crores of rupees for non-temple purposes without following the procedures under Section 36 of the 1959 Act and transfer of crores of rupees to a non-est fund called by the instrumentalities of the HR&CE Department as the "Commissioner's Common Good Fund" - again without following the procedures under Section 36 of the 1959 Act were carried out. Section 30 and 31 Registers were never recorded annually. No external concurrent audits took place as required under law. Even **Dastik** due from Government was not collected.
 - x.** For Fasali 1424 (01.07.2014 to 30.06.2015) Government collected **Rs. 1,18,04,599** (Rupees One Crore eighteen lakhs four thousand and five hundred and ninety-nine) as annual audit fees. **This is a fraud on the temple and its devotees** since no external concurrent audit was conducted as required under the 1959 Act. The audit fees of 4% on the total income is downright unethical and obnoxious.
 - xi.** I would like to add **many more of such frauds including letting out the Temple Elephant for Cinema Shooting** and spending huge sums to bring back the elephant and the mahout that were abandoned by the Movie company, but I am reserving them for arguments, if I am forced to file a Writ Petition against your refusal to cancel the instant G.O.Ms. No. 105 dated 05.08.2021.
- G.** On 21.01.2013, the then "Executive Officer" of the Tiruttani temple Mr. N. Pugazhendi sent a communication R.C. No. 1522/A1/2011 dated 21.01.2013 in response to Commissioner's communication R.C. No. 06/2013 dated 06.01.2013. Through this communication, the said "Executive Officer" send details of 13 devotees of Tiruttani Sri Subramaniaswamy Temple, who have over many years eminently served the temple and temple causes, through their philanthropical actions. However, except one devotee all of them were residents of locations far from Tiruttani. No such exercise was done by the Commissioner even though Mr. V. Jaishankar tendered his resignation way back in May 2021.

H. By Act 26 of 2013 TN Government inserted Section 25-A in the TN HR&CE Act, 1959 and the said section came into force on 9th December 2013. Normally, it would be preaching to the choir if one were to quote a Section of a Statute relating to his Department to a Secretary to Government. However, reading the instant G.O. Ms. 105 dated 05.08.2021 one wonders if anyone in the HR&CE Department or in the Religious Endowments Department have seen Section 25-A of the 1959 Act or not. My doubt is fortified by the fact that the Commissioner gave an audacious reply to my notice dated 22.06.2021 regarding appointment of trustees to Pazhani Sri Dhandayuthapani Swamy temple vide G.O. Ms. No. 41 Tourism Culture and Religious Endowments (R.E. 3-1) Department dated 26.02.2021. The Commissioner went on to say the Trustees so appointed were Hindus. He could not mention any other qualification of the persons appointed. Subsequently, after I filed Writ Petition No. 15683 of 2021 challenging the appointments, the Trustees were asked by Government to resign en-masse.

I. I therefore feel that it is necessary to produce what the relevant Section 25-A of the 1959 Act says:

"25-A. Qualifications of trustees.--

A person shall be qualified for being appointed as, and for being, a trustee of any religious institution or endowment-

- (a)** if he has faith in God;
- (b)** if he possesses good conduct and reputation and commands respect in the locality in which the religious institution or endowment is situated;
- (c)** if he has sufficient time and interest to attend to the affairs of the religious institution or endowment; and
- (d)** if he possesses such other merit incidental thereto."

J. Once again it has become clear that the Commissioner of the Hindu Religious and Charitable Endowments Department or you Sir, have not found it necessary to abide by the TN HR and CE Act, 1959 and in particular follow section 25-A in letter and spirit so that Hindu citizens or in this case a Hindu citizen of merit be appointed as a fit person for an interim period, which should be a period less than 90 days. It is amply clear that the appointment of an servant of the

HR&CE department as the Fit Person to Tiruttani Sri Subramaniaswamy Temple, is not sustainable for the following amount other reasons:

- a.** The administration of a Sampradayic ancient Temple cannot be vested with a Secular authority.
- b.** The person appointed cannot be said to possess reputation and it cannot be claimed commands respect in the locality of the temple.
- c.** The person appointed as the Fit Person of Tiruttani Temple is already the "Executive Officer" of Tiruverkadu Sri Karumariamman Temple and therefore it cannot be said he has sufficient time and interest to attend to the affairs of the Temple which has 30 sub-temples including 3 *Tevara Sthalams* under its umbrella. He is going to function as "Fit Person" of Tiruttani temple only because his Superiors in Government has nominated him to be so.
- d.** Qualifications are person oriented and not designation oriented. Therefore the appointment based on designation can never be made and is void ab initio.
- e.** Under Right to Information Act, 2005, I have obtained information that the order appointing an Executive Officer under any of the enabling provisions of the TN HR& CE Act, 1959 or the 1951 Act for Sri Karumariamman Temple, Tiruverkadu is not traceable. It is clear that the very presence of an Executive Officer for Sri Karumariamman temple is non-est in the eye of law. Therefore, a non-existing Executive Officer cannot be appointed as the "Fit Person" of Sri Subramaniaswamy Temple, Tiruttani.
- f.** It is a wonder how the Government which carefully studied the recommendation of the Commissioner vide his Letter R.C. No. 53324/2020/A1 dated 24.05.2021 and cited in the instant G.O. 105, swallowed the Commissioner's brazen lie that Sri Karumariamman Temple, Tiruverkadu is adjacent to Sri Subramaniaswamy Temple, Tiruttani. How a place that is more than 70 kilometres away can be called an adjacent

place is something that only the unabashed lie of the Commissioner can explain.

- g.** The instant G.O. Ms.105 dated 05.08.2021 does not mention a period of its operation and that makes this G.O. Ms.105 ex-facie arbitrary, illegal, and unjust.
- h.** The instant G.O. Ms. 105 is an indirect contrivance to fully control Sri Subramaniaswamy Temple, Tiruttani by the Government and its HR&CE Department. The G.O. is a tool to make the temple a fiefdom of the Government and such a Government Order is unconstitutional.
- K.** You are therefore called upon to **cancel forthwith the instant G.O. Ms. No. 105 Tourism, Culture and Religious Endowments (R.E. 3-1) Department** appointing the non-existing "Executive Officer" as the "Fit Person" of Sri Subramaniaswamy Temple a temple belonging to the sub-sect of Saivite Denomination (Sampradaya) as it is violative of Articles 25, 26, 29(1) of the Constitution of India and violative of Section 25-A, 47 and 51 of the TN HR&CE Act, 1959.
- L.** You are further called upon to immediately select qualified trustees from **Tiruttani and its immediate vicinity from persons belonging to Saivite Sampradaya** and having qualifications mandated under Section 25-A of the 1959 Act within 10 days. Failing which I shall be constrained to seek appropriate relief from an appropriate court of law at your cost.
- M.** You are further requested to acknowledge this notice by reply of email or post and further send a detailed reply to my notice at the earliest.

Thanking You Sir,

Sincerely

(T R Ramesh)