

22-Jun-2021

From:

T R Ramesh
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17 D'Silva Road
Mylapore
Chennai 600004

To:

- (1) Additional Chief Secretary-
Government of Tamil Nadu
Tourism, Culture and Religious
Endowments Department
Secretariat - Fort St. George
Chennai 600 009
- (2) The Commissioner
Hindu Religious & Charitable Endowments Dept.
Nungambakkam High Road
Chennai 600 034

Dear Sirs,

Sub: Appointment of non-hereditary Trustees to Sri Dhandayuthapani Swamy Temple, Pazhani vide G.O. Ms. No. 41 Tourism, Culture and Religious Endowments - (R.E.2.1) Department dated 26.02.2021 - **Qualifications of Trustees** as mandatorily required under **Section 25-A** of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 **not considered at all**. Such appointments are not valid - The appointed Trustees are to be removed and Trustees with due qualifications and belonging to the Sampradaya and Traditions of the Temple are to be appointed afresh and

at the earliest in compliance with the directions of the Learned Single Judge in my Writ Petition (MD) No. 10903 of 2020 dated 22.09.2020.

- A.** The 1st of you are the Principal Secretary, Tourism, Culture and Religious Endowments Department. The 2nd of you are the Commissioner of Hindu Religious and Charitable Endowments (Administration) Department.
- B.** The 1st of you and the 2nd of you are well aware that any of the the non-hereditary Trustees appointed to Hindu Religious Institutions under Section 47 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the 1959 Act for brevity) have to necessarily have the qualifications made mandatory under Section 25-A of the said 1959 Act.
- C.** I am the President of Temple Worshippers Society and the President of Indic Collective Trust. **I issue this notice to you two.**
- D.** Pazhani Sri Dhandayuthapani Swamy Temple is the highest income grossing Temple in Tamil Nadu and it has been so, for many decades. This temple is classified under Section 46(iii) of the 1959 Act for which Government alone can appoint non-hereditary Trustees under Section 47 of the said 1959 Act.
- E.** From the year 2011, Government had deliberately abstained from appointing trustees to all temples in Tamil Nadu (about 19000 plus) that had non-hereditary Trustees. Instead it appointed the

servants of the Hindu Religious and Charitable Endowments (HR&CE) Department as Fit Persons. This act was/is a fraud on the 1959 Act, violation of fundamental rights of Devotees guaranteed to them under Articles 25,26 and 29(1) of the Constitution and contemptuous of the Dictum of Constitutional Benches of Hon'ble Supreme Court of India laid down in Shirur Mutt Case (AIR 1954 SC 282) and Ratilal Panachand Gandhi Case (AIR 1954 SC 388) stating the vesting of administration of a Hindu Religious Institution in a Secular Authority is in violation of Article 26.

- F.** Government further issued orders such as G.O. Ms. No. 223 Tamil Development, Religious Endowments and Information (R.E. 3.1.) Department dated 10.06.2011 and G.O. Ms. No. 264 Tamil Development, Religious Endowments and Information (R.E. 3.1.) Department dated 11.07.2011 in appointing HR&CE Servants as "Fit Persons" to important temples in Tamil Nadu. These Government orders stated that such appointments were for an interim period and provided very limited powers only relating to payment of salaries, Annadhanam expenses, pooja and festival expenses to such appointed "Fit Persons".
- G.** But since the aim and objective of the Government were only to treat Hindu Temples as its fiefdom, by hook or by crook, the HR&CE Servant Fit Persons acted as if they owned these Hindu Temples and indulged in exercise of all powers of validly appointed Trustees and also "powers" that were never vested in the Trustees or in the authorities under the 1959 Act.

- H.** In some temples like Pazhani Sri Dhandayuthapani Swamy Temple, Samayapuram Sri Mariamman Temple and Sri Arunachaleswarar Temple, Tiruvannamalai, an additional stratagem that absolutely smacks of fraud was followed i.e. the Executive Officers of the these temples were themselves made the “Fit Persons” of such temples. This fraudulent “double-role” has been going on unabashedly and unchecked in Temples like Sri Parthasarathi Temple, Triplicane, Chennai - 05 for many decades.
- I.** On 22.09.2020, a learned Single Judge of the Madras High Court passed orders in my Writ Petition (MD) No. 10903 of 2020 concerning Sri Dhandayuthapani Swamy Temple, Pazhani wherein the Hon’ble Judge made a few declarations and also gave a direction to the State Government and to the controlling authorities to constitute Board of Trustees to Sri Dhandayuthapani Swamy temple as early as possible.
- J.** The Learned Single Judge observed (inter-alia) the following:
- 1.** The continuation of the Executive Officer, an arrangement under the 1927 Act, is illegal in Sri Dhandayuthapani Swamy Temple, Pazhani.
 - 2.** Fit Person is only a stop-gap arrangement. He should attend to Day-to-Day necessities set out in G.O. No. 223 dated 10.06.2021
 - 3.** Policy decisions and those having serious financial implications can be taken only by a duly constituted Board of Trustees and not by the Fit Person.
 - 4.** The Religious Institutions are to be managed only by the Board of Trustees.

- 5.** If the Executive Officer himself is also made the fit person so that he can discharge the functions of a trustee, and such a situation continues for years together, it is certainly a fraud on the statute.
- K.** Aggrieved by the order dated 22.09.2020 pronounced by the Learned Single Judge in Writ Petition (MD) 10903 of 2020, the “Executive Officer” of Sri Dhandayuthapani Swamy Temple, Pazhani filed Writ Appeal (MD) No. 860 of 2020. The 1st of you was made the 3rd Respondent and the 2nd of you was made the 2nd Respondent in the said Writ Appeal (MD). The prayer in the Writ Appeal was to set aside the judgment of the Learned Single Judge in Writ Petition (MD) 10903 of 2020. The two of you also filed Writ Appeal (MD) No. 294 of 2021 with a similar prayer.
- L.** The said Writ Appeal (MD) 860 of 2020 was heard at length and orders were reserved by their Lordships of the Hon’ble Division Bench. After the orders were reserved, Appellant produced a copy of Government Order (Ms) No. 41 Tourism, Culture and Religious Endowments (R.E. 3-1) Department said to be dated 26.02.2021.
- M.** On 16.03.2021, Hon’ble Division Bench by a common order - disposed of Writ Appeal (MD) No. 860 of 2020 and issued interim orders in Writ Petition (MD) No. 16416 of 2020. The Writ Appeal was disposed of stating that the Board of Trustees have been appointed and nothing survives in the Writ Appeal leaving it open to the Board of Trustees by taking over the administration from the “Fit Person”.

N. It is important to note the identical prayers i.e. to set aside the order of the Learned Single Judge in Writ Petition (MD) No. 10903 of 2020 - by the Appellant in the Writ Appeal (MD) No. 860 of 2020 and in Writ Appeal (MD) No. 294 of 2021 by the two of you were turned down by the Hon'ble Division Bench by its order in the said Writ Appeals. Thus, the observations and the directions of the Learned Single Judge were **NOT** set aside and they have now become final since no appeal has been filed by the Appellant and the two of you against the order disposing of Writ Appeal (MD) No. 860 of 2020 and Writ Appeal (MD) No. 294 of 2021.

O. I now wish to bring to the kind attention of the two of you the following:

- a.** While appointing non-hereditary Trustees vide G.O. Ms. No. 41 Tourism, Culture and Religious Endowments dated 26.02.2021, it is seen that no qualifications of the Trustees as mandated under Section 25-A were considered by the 2nd of you while recommending the names of the Trustees to the Government vide HR&CE Department Commissioner Letter No. 60328/2019/A2 dated 25.02.2021.
- b.** The 1st of you, hurriedly and without applying your mind and almost instantaneously appointed the names recommended by the 2nd of you without carefully studying the letter dated 25.02.2021 which was most likely received by the 1st of you on 26.02.2021 and without considering it necessary to follow Section 25-A of the TN HR & CE Act, 1959.

- c.** These make the appointment of Trustees vide the said G.O. Ms. No. 41 completely invalid.
 - d.** The learned Single Judge in his order dated 22.09.2020 had declared that the continuation of the Executive Officer in Sri Dhandayuthapani Swamy Temple, Pazhani is illegal. This has not been set aside or found incorrect by the Hon'ble Division Bench in its order relating to Writ Appeal (MD) No. 860 of 2020 and Writ Appeal (MD) 294 of 2021.
- P.** In light of the above, the **1st of you are called upon to cancel G.O. Ms. No. 41 dated 26.02.2021 and/or cancel the appointment of the 5 persons mentioned in para 3 of the said G.O. Ms. No. 41** since there has been no consideration at all regarding their qualifications that are mandatory and necessary under Section 25-A of the TN HR & CE Act, 1959.
- Q. You are called upon to appoint afresh non-hereditary Trustees for Sri Dhandayuthapani Swamy Temple belonging to Saivite/Kaumaram Sampradayas** and as per the traditions of the temple followed till such time the temple was notified in 1937 under the Madras Religious Endowments Act, 1926 (Act II of 1927) and illegally continued after 13.12.1951 in spite of the binding order of the Hon'ble Division Bench Of Madras High Court reported in 1952 I MLJ 557.
- R.** The 2nd of you is called upon **to remove the Executive Officer from Sri Dhandayuthapani Swamy Temple, Pazhani** since the continuation of such a post in the temple has been declared illegal

by an order dated 22.09.2020 in Writ Petition (MD) No. 10903 of 2020 filed by me. The Writ Appeal (MD) No. 860 of 2020 and Writ Appeal (MD) No. 294 of 2021 were disposed of by the Hon'ble Division Bench by its order dated 16.03.2021 without allowing the prayer by the Appellants.

- S.** Kindly carry out the 3 things - **mentioned and urged in Paragraphs P, Q and R above** - within the next two weeks, failing which, I shall be constrained to seek appropriate reliefs from a Court of Law at your cost.
- T.** I request you to kindly acknowledge this notice and send a reply at the earliest.

Thanking you Sirs,
Sincerely

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