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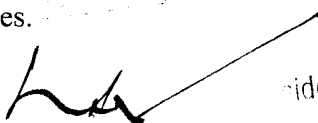
1. I respectfully submit that I am the 2nd petitioner herein and as such I am aware of the facts and circumstances of the case. I am swearing this affidavit on behalf of myself and the 1st Petitioner Trust, of which I am the President, and I am competent to do so. I am filing this affidavit on behalf of the 1st petitioner trust and myself in order to avoid any technical objections.

2. I am a permanent resident of Chennai and the President of Indic Collective Trust, a registered Trust pursuing legal actions to sustain and protect Indic cultural values and ethos. I am also the President of Temple Worshippers Society. The two organisations have been espousing the cause of Hindu temples, their heritage structures, their clean and efficient administration by creating public awareness and proper enforcement of the laws concerning such temples, carrying out research and filing of Writ Petitions including Public Interest Litigations for the cause of protecting and maintaining Hindu temples of yore, among other public causes concerning Indic Civilization values. The organisations also carry out social activities helping communities around temples. During the current pandemic, both organisations provided financial assistance to priests, temple musicians, workers, and flower sellers in many parts of the state, whose income was affected due to the Covid pandemic.

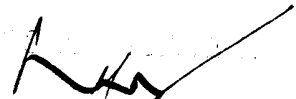
3. I respectfully submit that I am a practicing Hindu and a worshipper of many temples and therefore have a keen interest in the proper management of temples and their funds. Therefore, I am a “person having interest” as per the provisions of Section 6(16) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the 1959 Act) as I am entitled to attend and am also in the habit of attending the worship or services in the temples.

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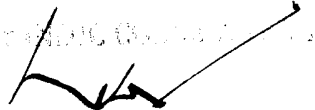
4. I respectfully submit that the details contained in this affidavit have been collated out of my own painstaking research, applications made under the Right to Information Act, 2005. The Applications and responses form a part of the documents supporting this affidavit.
5. I respectfully submit that I am an income tax assessee and my Permanent Account Number is AEPPR4560K and my AADHAAR number is 2585 0452 9082. I state that my annual income is about Rs. 4,00,000/- (Rupees four lakhs only). I am a permanent resident of Chennai. I respectfully submit that I am a post graduate in Commerce and was formerly in the management of a multi-national bank. I respectfully submit that the PAN Number of the Indic Collective Trust is AABTI4756Q and the Trust Deed has been enclosed as part of the documents accompanying this Writ Petition.
6. I respectfully submit that I have filed this instant writ petition as a Public Interest Litigation and that I have filed this PIL out of the funds of the Trust. The Trust is funded from donations from its Trustees among other donors. I respectfully submit that I have no personal interest in the case, and I understand that in the event that this Hon'ble Court finds that this PIL has been filed for any personal gains or oblique motive, this PIL may be dismissed with costs. I respectfully submit that to the best of my knowledge, there is no other Public Interest Litigation arising from the same issue that has been filed before this Hon'ble Court.
7. I respectfully submit that I have filed several Public Interest Litigations on Issues of Heritage, Culture and Temple protection and proper Administration. The



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Petitions have been filed in my personal capacity and as President of the Indic Collective Trust and Temple Worshippers Society.

- a. W.P. No. 14256 of 2020: Filed as President of Indic Collective Trust praying for a Writ of Mandamus directing the Government and the Hindu Religious Endowments Department to conduct only external audit as required under law for the Hindu Religious Institutions under the administrative control of the Hindu Religious and Charitable Endowments Department. The matter is pending before this Hon'ble Court.
- b. W.P. No 13502 of 2020, challenging the Presence of Executive Officers in about 70 Temples without any legally sustainable orders of appointment ever made for such temples for more than 50 Years. The matter is pending before this Hon'ble Court.
- c. W.P. Nos. 9869, 9872 and 9878 of 2020: Filed as President of the Indic Collective Trust challenging the illegal transfer of funds from Hindu Temples by the 2nd Respondent herein. This Hon'ble Court was pleased to grant an order of stay of such transfer of funds in the aforesaid Petitions.
- d. W.P. Nos. 32698 of 2019: Challenging, G.O. No.318 of 2019, the taking over lands belonging to Hindu Temples and Endowments and giving them to encroachers in such lands. This Hon'ble court was pleased to grant an interim stay order against the Government Order in respect of Hindu Temple and Endowment Lands.

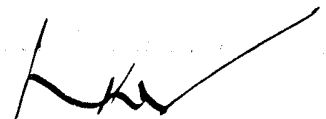


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- e. W.P. No. 2290 of 2017: Challenging Conditions for appointment of Executive Officers. This Hon'ble Court was pleased to dismiss the said petition. These Rules are now challenged before Hon'ble Supreme Court of India by Indic Collective Trust in Writ Petition 1432 of 2019 along with many provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959
- f. W.P. No. 17468 of 2016: Challenging Preservation and Maintenance of Religious Institution Rules. This Hon'ble Court was pleased to dismiss the Writ Petition with suggestions to the Tamil Nadu Government to amend the said Rules keeping with the times.
- g. W.P. Nos. 25429 to 25433 of 2015: Challenging the presence of Executive Officers in five temples. Disposed of as Rules were framed albeit with retrospective effect. The Hon'ble Supreme Court was pleased to observe in the Special Leave Petition filed against this common order that

"...it appears to us that the High Court has not considered it on merits, whether the Rules are retrospective or not, as there is no consideration on merits of the submissions in the impugned order..."

The Hon'ble Supreme Court was pleased to permit this Petitioner to file review petitions before the Hon'ble Division Bench of Madras High Court. The said review petitions are pending before this Hon'ble Court.




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- h. W.P. Nos. 11412 and 11413 of 2015: As Secretary-General of the Temple Worshipers Society: Challenging the appointment of servants of HR&CE Department as “Fit Persons” (Super Trustees) of Hindu Temples. These Writ Petitions are pending adjudication before this Hon’ble Court.

In November 2021, this Hon’ble Court admitted the following four cases and passed detailed interim orders:

- i. W.P. No. 21906 of 2021 challenging the Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020 that have come into effect on September 4, 2020
- j. W.P. No 23070 of 2021, challenging the appointment of servants of the Hindu Religious and Charitable Endowments Department to Hindu Temples on Foreign Service in addition to the Executive Officers functioning in such Hindu Temples.
- k. W.P. Nos. 22916, 22921 and 22926 of 2021: Filed as President of the Indic Collective Trust challenging the various Budget Session announcements made in the Tamil Nadu Legislative Assembly concerning Hindu Temples including melting of gold belonging to Hindu Temples. This Hon’ble Court was pleased to stay the melting of Temple Gold.
- l. W.P. No. 24156 of 2021 challenging the starting of self-financing colleges using temple funds. This Hon’ble Court, by its interim order dated 15.11.2021 stayed the starting of 6 colleges using the funds of various Hindu Temples.

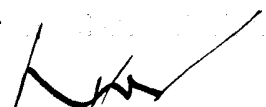

President

Instant Writ Petition

8. I respectfully submit that the Petitioners are filing the present writ petition as a Public Interest Litigation, questioning the legality of functioning of Executive Officers of the Hindu Religious and Charitable Endowments Department where appointments of such Executive Officers were made under Sections 43-A or 45 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and where such orders were made before "Conditions for Appointment of Executive Officers Rules" were framed and notified i.e. before 06.11.2015 or where such orders of appointment of Executive Officers did not make out a case for such appointments or where such orders of appointments were made without a prescription of the period for which such orders were to be valid and/or where Executive Officers are functioning in Hindu Temples and Endowments beyond five years of issuance of such orders of appointments of Executive Officers that were ostensibly made vide valid proceedings under the afore-mentioned enabling provisions viz., Section 43-A or Section 45 or under Section 74 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

The Hindu Religious and Charitable Endowments Department

9. I respectfully submit that the 2nd respondent is the Head of the Tamil Nadu Hindu Religious and Charitable Endowments Department (hereinafter the "HR&CE Department"). The HR&CE Department in its website states that there are 44,121 Hindu Temples and Endowments under its administrative control and 2nd Respondent is the Corporation Sole of the said Department as per Section 11 of the 1959 Act. The 2nd respondent and his subordinates in the said HR&CE




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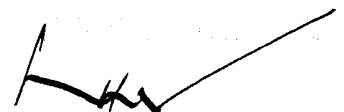
Department derive authority and powers as contemplated under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

Writ Petition No. 13502 of 2020 Regarding about 70 Notified Temples and Scheme Temples

10. I respectfully submit that the 2nd Petitioner herein had, as a Public Interest Litigation, filed Writ Petition W.P. No. 13502 of 2020 challenging the reply dated 18.11.2017 issued by the 2nd Respondent herein refusing to act upon the illegal and unauthorized presence and functioning of various Executive Officers of the Hindu Religious and Charitable Endowments Department, without valid, legally permissible orders appointing them at various temples in Tamil Nadu including about 45 to 50 temples, *which were earlier notified under Chapter VI-A of the Madras Hindu Religious Endowments Act, 1926 (Act II of 1927)* (hereinafter referred to as the 1927 Act for brevity). However, the notification came to an end by an order dated 13.12.1951 of an Hon'ble Bench of this Hon'ble Court striking down the provisions relating to such notifications. Regardless of the same, the extension continued by bringing in an amendment to the Act, which was again put to an end by an Order of a Four Judges Bench of the Hon'ble Supreme Court of India by its order dated 10.02.1965. Further *the said Writ Petition also challenged the presence of Executive Officers in about 20 odd temples for which Schemes of administration were framed by the Deputy Commissioner of the HR&CE Department, but no Executive Officers were ever appointed for such temples* by an order of the 2nd Respondent herein who is the appropriate authority under the 1959 Act for making such appointments after following the due process laid down in the said Act for such appointments.



11. I respectfully submit that I had, prior to filing of Writ Petition No. 13502 of 2020, filed W.P. No. 17109 of 2018, concerning only the temples for which schemes of administration were framed under Section 64 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the 1959 act for brevity) but no executive officers were appointed to such temples. Hon'ble Division Bench of this Hon'ble Court advised me to challenge the reply dated 18.11.2017 from the 2nd Respondent which were concerning both the "scheme temples" and the "notified temples". Accordingly, the said Writ Petition No. 17109 of 2018 was withdrawn and subsequently, Writ Petition No. 13502 of 2020 was filed. An Hon'ble Division Bench of this Hon'ble Court was pleased to issue notice to the Respondents in the said Writ Petition No. 13502 of 2020 and the 2nd Respondent has filed a counter-affidavit dated 07.10.2020. I humbly, further submit, that the said petition is now ripe for final arguments. My affidavit in Writ Petition No. 13502 and the counter-affidavit filed by the Joint Commissioner (Legal) purportedly filed on behalf of the 2nd Respondent are filed in the Typed-Set of Annexures of this Writ Petition for reference.
12. I respectfully submit that for the purposes of greater clarity it is reiterated that the afore-cited earlier Writ Petition No. 13502 of 2020 filed by this Petitioner as a Public Interest Litigation relates only to the following two classifications of temples viz.,
- a. **Notified Temples for which notifications are long over and were quashed by orders of this Hon'ble Court and Hon'ble Supreme Court of India:**



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About 50 Hindu Temples notified under Chapter VI-A of the Madras Religious Endowments Act, 1926 (Act II of 1927). The continuation of the notifications of these 50 odd temples under Chapter VI of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1951 (hereinafter referred to as the 1951 Act for brevity) came to an end when an Hon'ble Division Bench of this Hon'ble Court struck down the provisions of Chapter VI in the said 1959 Act as unconstitutional by an order dated 13.12.1951 and reported in 1952 I MLJ 557 and subsequently by an order dated 16.04.1954 and reported in AIR 1954 SC 282 by a Seven Judge Constitutional Bench of the Hon'ble Supreme Court of India.

b. Scheme Temples in which Executive Officers are functioning by fraud and deceit:

About 30 odd important temples in Tamil Nadu for which Schemes of Administration were framed under the 1951 Act or 1959 Act and the said schemes contained clauses pertaining to appointment of an Executive Officer to such temples by an appropriate authority, but no Executive Officers were ever appointed thereafter by the appropriate authority.

It is further humbly submitted that the present Writ Petition differs from the above two classifications since this petition deals with orders of appointments of Executive Officers to Hindu Temples and Endowments issued by the 2nd Respondent herein under Section 43-A and Section 45 of the 1959 Act.

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Provisions that enable appointment of Executive Officers in the 1959 Act:

13. I state that in the 1959 Act the following three Sections enable the Second Respondent i.e. the Commissioner of the HR & CE Department to appoint “Executive Officers” to Hindu Religious Institutions:

“43-A. Appointment and duties of executive officers in temples under maths.—

(1) Notwithstanding anything contained in section 45 or any other provision in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an executive officer for any temple under the control of a math.

(2) The executive officer shall be subject to the control of the trustee of the math and shall exercise such powers and discharge such duties as may be prescribed.

(3) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive officer.”

“45. Appointment and duties of Executive Officers.—

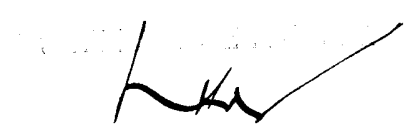
(1) Notwithstanding anything contained in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an Executive Officer for any religious institution other than a math or a specific endowment attached to a math.

Explanation -- In this section “math” shall not include a temple under the control of a math.

(2) The Executive Officer shall exercise such powers and discharge such duties as may be assigned to him by the Commissioner:

Provided that only such powers and duties as appertain to the administration of the properties of the religious institution referred to in sub-section (1) shall be assigned to the Executive Officer.

(3) The Commissioner may define the powers and duties, which may be exercised and discharged, respectively, by the Executive Officer and the trustee, if any, of any religious institution other than a math or a specific endowment attached to a math.



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(4) *The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the Executive Officer.*

“Section 74. Appointment of salaried Executive Officer.-

For every institution notified under this Chapter, the Commissioner shall, as soon as may be, appoint a salaried Executive Officer, who shall be a person professing the Hindu Religion.”

Dicta of Hon’ble Supreme Court of India regarding appointment of Executive Officers to Hindu Religious Institutions:

14. I respectfully submit that a Constitutional Bench of the Hon’ble Supreme Court of India in its order dated 08.02.1965 in *Sri-la-Sri Subramania Desika Pandara Sannati Case* (AIR 1965 SC 1683) observed (inter-alia) as follows:

“...The Deputy Commissioner, the Commissioner, or the Court as the case may be, is not bound, in framing a scheme, to appoint an executive officer in every case; a case must be made out for such appointment...”

15. I respectfully submit that in *Dr. Subramanian Swamy & others vs. State of Tamil Nadu & others*, reported in (2014) 5 SCC 75, Hon’ble Supreme Court observed (inter alia) as follows:

*“...44. Shri Subramonium Prasad, learned AAG, has brought the judgment in **M.E. Subramani & Ors. v. Commissioner, HR&CE & Ors.**, AIR 1976 Mad 264, to our notice, wherein the Madras High Court while dealing with these provisions held that Commissioner can appoint an Executive Officer under Section 45 even if no conditions have been prescribed in this regard. It may not be possible to approve this view in view of the judgments of this Court referred to in para 41 supra. thus, an Executive Officer could not have been appointed in the absence of any*

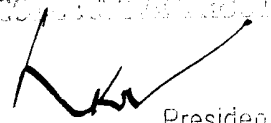
rules prescribing conditions subject to which such appointment have been made ...”

Dicta of Hon’ble Supreme Court of India regarding takeover of administration of Hindu Religious Institutions:

16. I respectfully submit that in the afore-cited SDG Pandara Sannati Case, Constitutional Bench of the Hon’ble Supreme Court made the following observation regarding takeover of a Hindu Religious Institution in case of proven mismanagement of the said Institution:

*“.... Where a temple is so badly mismanaged that the administration cannot be improved by the exercise of ordinary powers under the Act or by framing a scheme, the Commissioner is given the power to notify such a temple and put it under the direct control of an Officer directly responsible to him. This is in the nature of supersession of the ordinary administration of a temple. It is, therefore, clear that under the Act the administration of all temples is subject to the exercise of the powers conferred upon the authorities thereunder. The Deputy Commissioner can settle a scheme for the proper administration of a temple. **If the administration of a temple is very bad, it can be superseded and the temple notified for a prescribed period.** From the scheme of the said provisions we do not see any justification for the argument of the learned counsel for the State that the shall accept without scrutiny the view of the Deputy Commissioner that the scheme requires modification in the manner suggested by him and the formal approval by the Court is all that is contemplated thereunder...” (Emphasis Supplied)*

17. I respectfully submit that Hon’ble Supreme Court in Dr. Subramanian Swamy & others vs. State of Tamil Nadu & others reported in (2014) 5 SCC 75, laid down

For INDIA CO-OPERATIVE BANK

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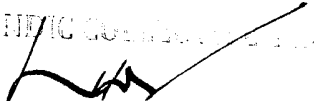
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the following regarding takeover of the administration of a Hindu Religious Institution:

“....Even if the management of a temple is taken over to remedy the evil, the management must be handed over to the person concerned immediately after the evil stands remedied. Continuation thereafter would tantamount to usurpation of their proprietary rights or violation of the fundamental rights guaranteed by the Constitution in favour of the persons deprived. Therefore, taking over of the management in such circumstances must be for a limited period. Thus, such expropriatory order requires to be considered strictly as it infringes fundamental rights of the citizens and would amount to divesting them of their legitimate rights to manage and administer the temple for an indefinite period....”

“.... Super-session of rights of administration cannot be of a permanent enduring nature. Its life has to be reasonably fixed so as to be co-terminus with the removal of the consequences of maladministration. The reason is that the objective to take over the management and administration is not the removal and replacement of the existing administration but to rectify and stump out the consequences of maladministration. Power to regulate does not mean power to supersede the administration for indefinite period.

“....Even otherwise it is not permissible for the State/Statutory Authorities to supersede the administration by adopting any oblique/circuitous method..”

For HINDU RELIGIOUS INSTITUTIONS


“... An order in which the period of operation is not mentioned is ex-facie arbitrary, illegal and unjust....”

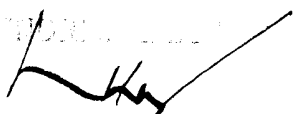
(Emphasis supplied)

18. I respectfully submit that the dicta of the Hon’ble Supreme Court of India as stated in the above two judgments can be summarised as follows:

- a. A case must be made out for every appointment of an Executive Officer to a Hindu Religious Institution.
- b. The appointment of an Executive Officer can be only for a limited period and for the purposes of curing the mismanagement and the said limited period should be reasonably fixed.
- c. Orders taking over the administration of a temple are expropriatory orders that are required to be considered strictly otherwise they would violate fundamental rights guaranteed by the Constitution of India.
- d. The regulatory power in the hands of the authorities is not to be construed as the power to supersede the administration for an unlimited period.
- e. Citizens have legitimate rights to manage and administer the temple for an indefinite period.
- f. The State/Statutory authorities cannot supersede the administration of a religious institution by adopting any indirect or circuitous method.

Hindu Religious Institutions under the HR&CE Department

19. I respectfully submit that the 2nd Respondent’s Department viz., the HR&CE Department claims in its Department’s Website that 44,296 Temples are under its “administrative control”. However, the Policy Note of the Department for the



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year 2021-2022 states that only 38,667 religious institutions are under its control of which are 36,627 temples and 57 temples attached to Holy Mutts. Further, there are 17 temples belong to the Denominations of Jains. it is clear that 88.22% of the temple under the control of the HR&CE Department have an annual income of less than Rs. 10,000/-. This would mean that these temples do not even get Rs. 30/- per day as income. However, the reason for the Department controlling such Temples with a paltry income is not known. In fact, the Department has effectively curtailed the active involvement and administration by the local communities in which the Temples are situated. It is more than obvious that in these temples are Executive Officers and “Fit Persons” of the HR&CE Department functioning as administrators, for no valid reasons since a temple having less than Rs.30/- a day as income would have no avenue for mismanagement when even one pooja in a day cannot be carried out with that sum of Rs. 30./-. This, it is humbly submitted, is systematic decimation of Hindu Temples, particularly village temples as 1000s of temples have fallen into disuse by the control of HR&CE Department of these tempels and the alienation of communities from them. These Hindu Temples are controlled by the said HR&CE Department, through its officials, in complete violation of the dictum of the Constitutional Bench of Hon’ble Supreme Court of India laid down in the afore-cited SDG Pandara Sannati Case (AIR 1965 SC 1678) and the dictum of the Hon’ble Supreme Court in the Chidambaram Temple Case (2014 5 SCC 75). The said chart is reproduced below from the Policy Note of the HR & CE Department for the year 2021-2022:

"6. Religious institutions have been classified as listed and non-listed institutions based on their annual income.

Classification of the Religious Institutions

Sl. No.	Classification	Annual Income	Number of Institutions/Percentage (%)
1.	Non-listed Institutions – Under Section 49(i)	less than ₹ 10,000/-	34,111 (88.22%)
2.	Listed Institutions – Under Section 46(i)	₹ 10,000/- to less than ₹ 2 lakh.	3,528 (9.12%)
3.	Under Section 46(ii)	₹ 2 lakh to less than ₹ 10 lakh.	492 (1.27%)
4.	Under Section 46(iii)	₹ 10 lakh and above.	536 (1.39%)
Total			38,667

20. I respectfully submit that under para 18 of the Policy Note of 2021-2022 it is stated as follows:

"...Each Religious Institution and Charitable Endowment is a separate legal entity and is administered by its trustees who are empowered to appoint its employees. However, the Commissioner is to appoint Executive Officers under section 45(1) of the Act and Rules framed thereunder...."

21. I respectfully submit that there are about 628 Executive Officers, who are functioning in the HR&CE Department under the 2nd Respondent, and they are literally controlling about 44286 Hindu temples. That is to say, an Executive Officer is managing an average of about 70 temples. This would mean an

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Executive Officer looking after such number of temples is giving less than 7 minutes on a working day for each temple. This, it is submitted, cannot be by any stretch of imagination said to be better management of temples. Paragraph 31 of the Policy Note for the year 2019-2020 of the Hindu Religious and Charitable Endowments Department gives the number of Executive Officers who are working in the HR&CE Department and who are posted to the 44,000 plus temples across Tamil Nadu. Further, temples are classified according to their income and Executive Officers of the rank Assistant Commissioner and above are appointed to temples that have an annual income of Rs. 10 crore or above. These temples are categorized as “Grade I temples”, a category that has no footing under any of the provisions of the TN HR & CE Act, 1959 but made only to bankroll the payment of salaries and allowances to the Executive Officers, above the Grade I, who are illegally present in temples.

22. I respectfully submit that a 24 page list of temples given district wise where Executive Officers of Grade I to IV of the HR&CE Department are in charge of the 600 odd temples is appended to the typed set of papers in this Petition.

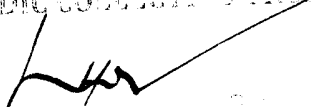
“Executive Officers

19. Based on the significance, revenue, assets, workload and other activities of the temple, the following grades of Executive Officers have been created:-

Classification of Executive Officers

Sl. No.	Grade of the Executive Officers	Post
1.	Joint Commissioner	11
2.	Deputy Commissioner	9
3.	Assistant Commissioner	27
4.	Executive Officer – Grade I	66
5.	Executive Officer – Grade II	111
6.	Executive Officer – Grade III	250
7.	Executive Officer – Grade IV	154

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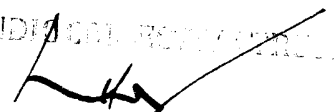
	Total	628
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Stratagem of Appointing HR&CE Servants as Fit Persons of Hindu Temples

23. I respectfully submit that, the Respondents herein have deliberately refrained in the last 11 years from appointing Trustees to Hindu Religious Institutions including more than 20,000 temples, completely giving a go-by to the statutory framework of the Act under Sections 47 and 49 of the TN HR&CE Act, 1959 which cast a mandatory duty on the Respondents and the Joint Commissioners and Assistant Commissioners working under the 2nd Respondent to make such appointments . However, the 628 Executive Officers and other personnel in the HR&CE Department are appointed as “Fit Persons” for these 20000 temples. This, it is humbly submitted, is an indirect and illegal contrivance to make Hindu Temples as an extension of the so-called secular State Government and a blatant violation of Articles 25 and 26 of the Constitution. The Respondents ought to have known that what cannot be done directly, cannot be done indirectly, which is a legal maxim by itself, i.e., *Quando aliquid prohibetur ex directo, prohibetur et per obliquum*.

Presence of Executive Officers in Hindu Temples without any valid orders of Appointment

24. I respectfully submit I have been regularly filing applications under the Right to Information Act, 2005 regarding various temples that are under the administrative control of the 2nd Respondent herein. In the process, I discovered that for the lion’s share of the Hindu temples in Tamil Nadu that are under his administrative



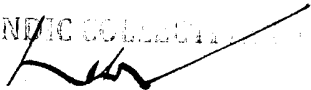
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control, there are no legally sustainable orders appointing an Executive Officer, ever issued or traceable, under any of the enabling provisions of the 1959 Act.

25. I respectfully submit that this is a shocking state of affairs of the administration in Hindu temples of Tamil Nadu by the Respondents herein and those who are serving the government as their subordinates. It is pertinent to note that under the TN HR & CE Act, 1959 the Respondents and/or their subordinates have absolutely no power whatsoever to “administer Hindu Religious Institutions”. Executive Officers are present and functioning for 1000s of temples without any order, thereby making them mere trespassers in the Temples. In fact, this is borne out by the fact that the orders appointing an Executive Officer to the temple concerned is absent or is not traceable in the concerned temple, as well as in the office of the 2nd Respondent Commissioner, who is the authority under the 1959 Act to issue such orders of appointment of Executive Officers under any of said Act’s enabling provisions. The burden of proving that the appointment orders are in fact existing is on the 2nd Respondent. Any continuation of officers in Hindu temples without existence of appointment orders as ex-facie illegal.

26. I respectfully submit that by circular R.C. No. 33537/2017/L5 dated 07.07.2017 the 2nd Respondent Commissioner wrote to the “Executive Officers” of 12 temples directing them to urgently forward copies of the order appointing Executive Officers to the respective temples as he had to answer to the notice issued by this Petitioner. Shockingly, the Commissioner, who is the appointing authority, had no clue as to when or whether any orders appointing Executive Officers were issued to these temples. The 2nd Respondent Commissioner wrote to this Petitioner vide his reply dated 01.02.2021, in reply to the Petitioner’s

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For INE/C COLLECTION LIST


notice dated 15.01.2021 that the orders of appointment of Executive Officers for 32 temples I had cited in my above said notice are being searched for in all files in the Record room and the requisite information would be given once they are available. Till date there has been no reply from the Commissioner on these. Hence, I was constrained to send a reminder representation dated 01.06.2021 and the Commissioner responded by his reply dated 02.06.2021 without giving any details as to the availability of the copies of orders of appointment of Executive Offices to Hindu Temples and Endowments. Hence, it is reasonable to presume that there exist no such orders.

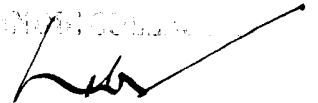
27. I respectfully submit that this is a very serious state of affair as expropriatory orders appointing Executive Officers to Hindu Temples of various religious denominations or Sampradays or sects are missing or untraceable. On the other hand, the HR&CE Department under the 2nd Respondent has given a long list of about 600 Temples having Executive Officers, grade wise and district wise. They have also given a list of 47 temples for which Executive Officers in the ranks of Joint Commissioner, Deputy Commissioner and Assistant Commissioner. The 2nd Respondent should come forward and produce every order of appointment for each of these temples for the following important reasons:

- i. Each order of appointment of Executive Officer **should have made out a case for such appointment** as directed by Constitutional Bench of Hon'ble Supreme Court of India by its order dated 10.02.1965 and reported in AIR 1965 SC 1578.

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- ii. Each order of appointment must be for a **prescribed period** as directed by Constitutional Bench of Hon'ble Supreme Court of India in the order cited supra.
- iii. The presence of an Executive Officer without a valid order is a fraud on the Hindu Citizens of Tamil Nadu and the various sects and sampradayas to which these temples invariably belong.
- iv. When the 2nd Respondent is able to name 628 Hindu Temples of different Sampradayas and also give the designations of the Executive Officers claimed to have been appointed to each one of them, he is duty bound to produce all such copies of the orders of appointment of Executive Officers.
- v. Commissioner's communications dated 07.07.2017, 01.02.2021 and 02.06.2021 cited supra show that the orders of appointment of Executive Officers are missing for a very large number of temples. This is a very serious situation leading to the presumption that the Government has been knowingly and unabashedly committing fraud in Hindu Temples for over 4 decades.

28. I respectfully submit that there seems to be a definite pattern in the absence of orders appointing Executive Officers to Hindu Temples under the administrative control of the 2nd Respondent herein. It appears that the Executive Officers have simply occupied the Hindu Temples without any legal authority. The only objective of their presence seems to be in complete control of Hindu Temples and that too primarily by resorting to illegal methods and stratagems. The takeover of the Hindu Temples is carried out predominantly to maintain the HR&CE



Department and pay the personnel therein at the cost of the Hindu temples. The 1st Respondent who was charging 3% of the income of the temples in the year 1951 is now charging 12% of the income of the temples from the year 2006. Besides this, 1% of the income of major temples is charged as "Review fees" with no authority under the 1959 Act to do so. This is, humbly reiterated, bankrolling of the HR&CE Department through Hindu Temple Funds, pure and simple and without any legal basis whatsoever to do so.

29. I respectfully submit that however, for many Hindu Temples Executive Officers have been appointed, ostensibly under Section 45(1) of the Hindu Religious and Charitable Endowments in the following Chart, an illustrative selection of the name of the temples, their locations and/or dates of the documents obtained through research/ Right to Information are given:

S No	Name of the Temple	Name of Town/ Village	Details of the Order of Appointment of Executive Officer
1.	Sri Kothandaramar Swamy Temple	Vaduvur, Tiruvarur District	D. Dis. No. 62325 dated 12.03.1966
2.	Sri Subramaniaswamy alias Sri Kandaswamy Temple, Sri Kasiviswanathar Temple, Sri Kandaliswarar and Sri Tiruvooraghaperumal Temple and Sri Sekkizhar Temple	Kundrathur, Sri Perampudhur Taluk, Chingleput District	R.c. No. 27427/66 dated 18.08.1966
3.	Sri Nithya Kalyana Perumal Temple	Tiruvidanthai, Chingleput District	R.C. No. 44687/68-2 dated 06.11.1968
4.	Sri Kasi Viswanathaswamy Temple and Sri Karpagavinayakar Temple,	Somarasenpettai and Uyyakondanthiru malai village, Tiruchirapalli Taluk	R. C. No. 64859/72/E3, Dated: 2.12.1972

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5.	Sri Dhandapniswarar Temple	Saidapet Taluk, Chennai	R. Dis. 59965/75 dated 03.09.1975
6.	Sri Sundara Mahalinga Swamy Temple	Sathuragiri, Madurai District	R.C. No. E3. 29456/76 dated 24.04.1976
7.	Sri Thiagarajaswamy Temple	Tiruvottriyur, Chennai	Proc. R.C. No.11611/81/ L-1 dated 15.04.1983
8.	Sri Subramaniaswamy Temple	Tirupparankundram, Madurai	Proc. R.C. 40135/83/L2 dated 05.05.1983
9.	Arulmigu Baladhandayuthapaniswamy Temple, Dindigul Road	Madurai	Proc. RC. No. 128888/82-2/L2 dated 14.07.1884
10.	Sri Mariamman Temple	Valangaiman, Tiruvarur District	Proc. R.C. 21126/82/ L2 dated 07.01.1985
11.	Sri Kailasanathar, Sri Dhakshinamurti Temple	Govindavadi, Kanchipuram District	Pro. R. Dis. 49308/88 dated 01.09.1988
12.	Sri Mahalakshmi Temple	Besant Nagar, Chennai	Proc. R.C. 51321/92/L1 dated 16.07.1992
13.	Sri Nagathamman Temple	Puzhal, Chennai	Pro. R. Dis. 64346/75 dated 08.10.1998
14.	Sri Anjaneyaswamy Temple	Pallavaram, Chennai	Proc. R. Dis. 101789/98/L1 dated 23.03.1999
15.	Sri Vashisteswarar Temple	Thittai, Thanjavur District	R. Dis. 46852/99/ L1 dated 26.07.1999
16.	Sri Karaneeswarar Temple	Saidapet, Chennai	Proc. R.C. 100865/2000-2/L5 dated 19.12.2001
17.	Sri Prasanna Vinayagar Temple	Triplicane, Chennai	Proc. R. Dis. 34235/05/L5 dated 25.07.2005
18.	Sri Karpaga Vinayagar Temple	Gerugambakkam	Proc. R. Dis. 20385/2008-2/L5 dated 03.05.2008

The Above Orders of Appointment of Executive Officers are invalid for All or Any of the following reasons:

30. I respectfully submit that the above orders of appointment of Executive Officers to Hindu Temples made under Section 45 of the 1959 Act, and all such similar

orders are illegal and are liable to be quashed or set aside for each of the following reasons individually and collectively for any of the following reasons:

- a. Conditions Under Sections 43-A and 45 were not Prescribed: All the above orders appointing Executive Officers to Hindu Temples were made before the “Conditions For Appointment of Executive Officers Rules” were prescribed under Sections 43-A and 45 read with clause (1) of sub-section (2) of Section 116 of the 1959 Act were framed, approved by the Legislature, and notified i.e. were made before 06.11.2015. The Commissioner could not have exercised powers under these sections 43-A and 45 of the 1959 Act without conditions necessary to be prescribed under the said sections prescribed and notified as clearly laid down by Hon’ble Supreme Court of India in *Dr. Subramanian Swamy & others vs State of Tamil Nadu & others (2014 5 SCC 75)*
- b. No Case made out justifying appointments of Executive Officers
None of the above-mentioned orders of appointments of Executive Officers to Hindu Temples make out a case for such appointment which is a necessary requirement mandated by a Constitutional Bench of the Hon’ble Supreme Court of India by its order dated 08.02.1965 in SDG Pandara Sannati Case and reported in **AIR 1965 SC 1683**.
- c. No Period of Operation Prescribed:
None of the above-mentioned orders of appointments of Executive Officers prescribe a period of operation of such appointments in the said orders as mandated by the Constitutional Bench of the Hon’ble Supreme Court of India in the above cited order reported **AIR 1965 SC 1683**. An

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order in which no period of operation is prescribed is ex-facie arbitrary, illegal, and unjust as held by Hon'ble Supreme Court of India in above-cited order reported in *2014 V SCC 75*.

d. Not Protected under Article 31-A(1)(b):

Article 31-A(1)(b) saves a law promulgated to take over the management of a property either for public good or for better management, from being hit by Articles 14 and 19 of the Constitution, **only if such takeover is for a limited period**. Again, the said Article 31-A(1)(b) would not save the law if it violates Articles 25, 25 and 29(1) of the Constitution of India. All the above-mentioned orders are violative of fundamental rights guaranteed under Articles 25, 26 and 29(1) and therefore are liable to be set aside.

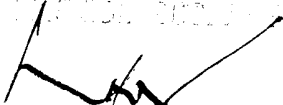
Executive Officers functioning for more than 5 years are Functi Officio per "Conditions for Appointment of Executive Officers Rules, 2015":

31. I respectfully submit that under Rule 3 of the "Conditions of Appointment of Executive Officers Rules, 2015" (*hereinafter referred to in this Writ Petition as the "2015 Rules" for brevity*) the 2nd Respondent Commissioner may appoint an Executive Officer for such religious institution, for such period or periods as may be specified by the Commissioner in the order not exceeding a period of five years at a time. None of the orders of appointment of Executive Officers made before the said 2015 Rules specified a period of operation of such appointments. In any case the 2015 Rules permit only a period not exceeding five years at a time. Since the said 2015 Rules came into force on 06.11.2015 all the above orders, if assumed, to have a period of operation of Five Years per Rule 3 of the said Rules,

have since become obsolete orders and all the said Executive Officers are Functi Officio who cannot legally and ethically continue beyond 5 years. This submission is made without prejudice to the legal position as declared by Hon'ble Supreme Court of India that an order in which no period of operation is mentioned is ex-facie arbitrary, illegal and unjust (2014 5 SCC 75).

32. I respectfully submit that the orders appointing Executive Officers to Hindu Temples and Endowments have been made decades ago and they are well beyond the period of 5 years stated in the 2015 Rules. These orders cannot be extended without making out a case for each such extension and without providing opportunities for the persons interested including the persons of the religious denomination to which each temple belongs. Every extension is similar to a fresh order being passed. The Hon'ble Supreme Court of India has made this abundantly clear in its judgment dated 10.02.1965 and reported in AIR 1965 SC 1578. The four-Judge Bench in that case observed (inter-alia) as follows:

"...Whether for issuing a notification under 64(3) or for extending an existing notification under s. 64(4) the process of decision is the same. In either case the Government had to satisfy itself whether supervision by the Executive Officer under the notification is required for public good. The Government cannot legitimately and satisfactorily consider the question as to whether the notification should be cancelled without hearing the party asking for cancellation; nor can it legitimately and reasonably decide to extend the notification without hearing the trustee. Circumstances could arise after the issue of the first notification, which would help the Trustee to claim that the notification should either be cancelled or should not be extended. The nature of the order which can be passed under s. 64(4)



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and its effect on the rights of the Trustee are exactly similar to the order, which can be passed under s. 64(3)...."

Unimaginable levels of Mismanagement by the Illegally present Executive Officers over 3 decades:

33. I respectfully submit that the illegal and fraudulent presence of "Executive Officers" of the HR&CE Department for many decades in the Hindu Temples and Endowments without any legally sustainable orders of appointment of such Executive Officers has also proved to be highly detrimental to the welfare and proper management of these temples and endowments:

- a. There is rank corruption in every aspect of the temple administration by the Respondents herein and by the instrumentalities of the HR & CE Department functioning under them.
- b. Their callous attitude and the greed for awarding civil contracts to sundry civil contractors who have no sense or idea about temple heritage and antiquity have wreaked havoc on the extraordinary heritage and aesthetic value of ancient temples of Tamil Nadu and in many cases the damages are irreversible.
- c. The instrumentalities of the HR&CE Department by fraudulently doubling up as "Fit Persons" of the Hindu Temples, i.e. as the Sole Trustees of the temples have seriously interfered in the religious aspects of the temples and have taken decisions relating to religious matters for which they have no knowledge or training whatsoever and have

implemented the directions of the respondents herein in violation of the established traditions, practices and agamas of the temples.

- d. The illegally present Executive Officers have chronically and miserably failed to protect the movable and immovable properties of the temples and endowments. More than 100,000 acres of Temple and Endowment lands are under encroachments and/or hostile occupation. About 47,000 acres of agricultural lands have disappeared since 1986 and the Respondents have no valid explanation for this huge loss of properties worth more than Rs. 10,000/- Crores.
- e. Their record over 30 years in not realising the due income from the properties of the temples and endowments is there for all to see. The failure to realise the due income and the obnoxious and illegal practice of the Respondents to utilise even that meagerly collected income for non-temples purposes including buying luxury vehicles for HR&CE Minister, HR&CE officials, building regional Joint Commissioners' and Assistant Commissioners' offices of the HR & CE Department building bus-stands for Municipalities, etc.
- f. The Respondents have failed to conduct external audit as required under the 1959 Act and to conduct concurrent audits in temples having more than Rs. 5. Lakhs as annual income. Audit objections accumulating 1.5 million have not been resolved since 1986 and no action have been taken against the erring officials including the illegally present Executive Officers. This has emboldened such illegal Executive Officers to plunder

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and loot further and with impunity, temple funds and properties with the active connivance and directions of the Respondents herein.

- g. The instrumentalities of the HR&CE Department have unabashedly taken the funds of Hindu Temples where Executive Officers are functioning without any authority of law to buy at least four luxury cars for the Minister of Hindu Religious and Charitable Endowments Department. The Commissioner, the 2nd Respondent herein, was using a car belonging to Mangadu Sri Kamakshi Amman Temple. One Additional Commissioner of the HR&CE Department is using a Scorpio Car bought with the funds of Sri Mariamman Temple, Samayapuram. Another Additional Commissioner in the HR&CE Department, who is an IAS officer, is using a Toyota Innova Car with registration number TN-07-Q-2129. I issued a notice to the 1st Respondent in this regard. Till date he is maintaining a stoic silence while allowing the said Additional Commissioner to continue to commit offences under Section 120-B of the Indian Penal Code read with sections 406, 408 and 409 of the Indian Penal Code and creating financial losses to the temple every month.

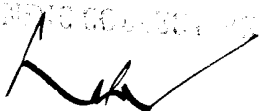
34. I respectfully submit that proof of a few instances of serious mismanagement have been appended to the typed set of papers enclosing this Writ Petition. This Petitioner craves the leave of this Hon'ble Court to provide detailed proof of evidence of such serious instances of mismanagement and criminal breaches of trust by the illegally present Executive Officers and officials of the HR & CE Department and Government.

Notice Issued to the Respondents regarding Orders of Appointment of Executive Officers made more than five years ago

35. I respectfully submit that I issued a Notice dated 19.11.2021 to the Respondents herein, bringing to their attention that in number of temples Executive Officers of the HR&CE Department are functioning without any legal authority and also beyond five years even if it is construed that their appointments were validly made under any of enabling provisions. I called upon, under the said Notice, the Respondents to withdraw the illegally functioning Executive Officers, who are said to have been appointed under Section 45 of the 1959, from those concerned temples without any further delay. I had further called upon the Respondents to ensure that an external audit and assessment of movable and immovable properties are conducted to ensure that the movable and immovable properties including, jewelry, icons, valuables and landed properties that were owned by the temple at the time of appointment of Executive Officers to the temples and the accumulation of such movable and immovable properties after the appointment of Executive Officers are properly handed over to the trustees or communities or sampradhayas from whose hands the administration was taken over and vested with the Executive Officers appointed to the temples.

Reminder Notice issued to the Respondents on 08.12.2021

36. I respectfully submit that on 08.12.2021 I issued a reminder notice to the Respondents on continuing the Executive Officers in Hindu Temples and Endowments without any legal authority or basis and well beyond a period of five years. I had enclosed a 28-page list downloaded from the website of the HR & CE Department which had given a list of 600 odd Hindu temples across various



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districts of Tamil Nadu for which Executive Officers are functioning in the cadre of Grade 1 to 4.

37. I respectfully submit that in the said reminder notice I further called upon the Respondents to publish the orders of appointments of Executive Officers of the 600 odd Temples the details of which were published in the HR & CE Website along with the annexures to each such order of appointment that would have been appended to the appointment orders as duties and powers assigned to the Executive Officers so appointed under any enabling provision of the 1959 Act.

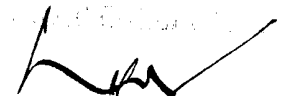
38. I respectfully submit that besides these 600 odd temples for which the Respondents claim that Executive Officers in Grade 1 to 4 have been appointed, there are 11 Executive Officers in the rank Joint Commissioners, 9 Joint Commissioners in the rank of Deputy Commissioners and 27 Executive Officers in the rank of Assistant Commissioners in 47 Hindu Temples. My notice demanded that these orders of appointment along with the annexures of the powers and duties assigned to the appointee Executive Officers be published too, at once, to demonstrate that the Executive Officers are functioning on the basis of validly issued orders of appointment.

39. I respectfully submit that the details of the Temples where the above said appointments of Executive Officers in the Ranks of Joint Commissioner, Deputy Commissioners and Assistant Commissioners have been made are as follows:

For INDIC COLLECTIVE TRUST



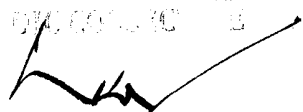
S.No.	Name of the Temple and Location	Executive Officer's Designation	Order Appointing Executive Officer
1.	Sri Kapaliswarar Temple, Mylapore, Chennai	Joint Commissioner	Order not traceable
2.	Sri Devi Karumariamman Temple, Tiruverkadu	Joint Commissioner	Order not traceable
3.	Sri Dhandayuthapaniswamy Temple, Pazhani	Joint Commissioner	Order issued under Section 75-B without Rules having been framed
4.	Sri Meenakshi Sundareswarar Temple, Madurai	Joint Commissioner	Order not traceable
5.	Sri Ramanathaswamy Temple, Rameswaram	Joint Commissioner	Order not traceable
6.	Sri Subramania Swamy Temple, Tiruchendur	Joint Commissioner	Order issued under Section 45 without Rules having been framed
7.	Sri Kanyakumari District Temples, Kanyakumari	Joint Commissioner	Order not traceable
8.	Sri Ranganatha Swamy Temple, Srirangam	Joint Commissioner	Order not traceable
9.	Sri Mariamman Temple, Samayapuram	Joint Commissioner	Order not traceable
10.	Sri Arunachaleswarar Temple, Tiruvannamalai	Joint Commissioner	Order not traceable
11.	Sri Subramania Swamy Temple, Tiruchendur	Joint Commissioner	Order issued under Section 45 without Rules having been framed
12.	Sri Kamakshi Amman Temple, Mangadu - Kancheepuram	Deputy Commissioner	Order not produced
13.	Sri Vadapazhani Andavar Temple, Vadapazhani, Chennai -	Deputy Commissioner	Order not traceable
14.	Sri Bannari Mariamman Temple, Bannari	Deputy Commissioner	Order not traceable
15.	Sri Subramaniaswamy Temple, Marudhamalai,	Deputy Commissioner	Order not traceable



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16.	Sri Swaminatha Swamy Temple, Swamimalai,	Deputy Commissioner	Order not traceable
17.	Sri Subramaniaswamy Temple, Thirupparankundram	Deputy Commissioner	Order u/s 45(1) without Rules being framed
18.	(1) Sri Solaimalai Murugan Temple and (2) Sri Kallazhagar Temple Azhagarcoil,	Deputy Commissioner	(1) order not produced (2) Order u/s 45 without Rules being framed
19.	Sri Sankaranarayanawamy Temple, Sankarankoil	Deputy Commissioner	Order not traceable
20.	Sri Parthasarathy Swamy Temple, Triplicane, Chennai	Deputy Commissioner	Order u/s 45(1) without Rules being framed
21.	Sri Sangameswarar Temple, Bhavani, Erode	Assistant Commissioner	Order not traceable
22.	Sri Angalamman Temple, Melmalaiyanur	Assistant Commissioner	Order not traceable
23.	Sri Sugavanesuwarar Temple, Salem	Assistant Commissioner	Order not traceable
24.	Sri Vanabadrakaliamman Temple, Thekkampatti	Assistant Commissioner	Order not traceable
25.	Sri Abathsagayeswarar Temple, Alangudi	Assistant Commissioner	Order not traceable
26.	Sri Venkatachalapathi Swamy Temple, Oppiliappan Koil	Assistant Commissioner	Order not traceable
27.	Sri Masaniamman Temple, Anaimalai	Assistant Commissioner	Order not produced
28.	Sri Jambukeswarar Akilandeswari Temple	Assistant Commissioner	Order not traceable
29.	Sri Kalyana Venkatramanaswamy Temple, Thanthonrimalai	Assistant Commissioner	Order not traceable
30.	Sri Thirumalaikumaraswamy Temple, Panpoli	Assistant Commissioner	Order not produced
31.	Sri Vekkalamman Temple, Thiruchirappalli	Assistant Commissioner	Order not traceable
32.	Sri Mariamman Temple, Irukkangudi	Assistant Commissioner	Order not traceable
33.	Sri Koodalagar Temple, Madurai	Assistant Commissioner	Order not traceable
34.	Sri Naganatha Swamy Temple, Thirunageswaram	Assistant Commissioner	Order not traceable

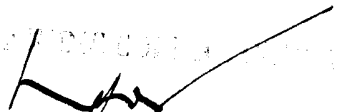
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35.	Sri Patteeshwaraswamy Temple, Perur	Assistant Commissioner	Order not traceable
36.	Sri Thiyagaraja Swamy Temple, Thiruvottiyur,	Assistant Commissioner	Order u/s 45 without Rules being framed
37.	Sri Vazhai Thottathu Ayyan Temple, Ayyampalayam,	Assistant Commissioner	Order not traceable
38.	Sri Lakshmi Narasimmaswamy Temple, Sholinghur	Assistant Commissioner	Order not traceable
39.	Sri Adaikalamkatha Iyanar And Bathirakaliamman Temple, Madapuram	Assistant Commissioner	Order not traceable
40.	Sri Devarajaswamy Temple, Kancheepuram	Assistant Commissioner	No Executive Officer. Govt Executive Trustee but order not traceable
41.	Sri Aranmanai Devasthanam, Thanjavur Town	Assistant Commissioner	Order not traceable
42.	Sri Courtrallanathaswamy Temple, Courtallam,	Assistant Commissioner	Order not traceable
43.	Sri Vinayagar Temple, Eachanari, Coimbatore	Assistant Commissioner	Order not traceable
44.	Sri Subramaniaswamy Temple, Kangeyam, Sivanmalai	Assistant Commissioner	Order not traceable
45.	Sri Arthanareeswarar Temple, Tiruchengode	Assistant Commissioner	Section 45 order without Rules being framed
46.	Sri Narasimaswamy Temple, Namakkal	Assistant Commissioner	Order not traceable
47.	Sri Thayumanaswamy Temple, Tiruchirapalli	Assistant Commissioner	Order not traceable

40. I respectfully submit that till date there has been no reply from the Respondents herein. Their stoic silence shows that the Executive Officers functioning in the Hindu Temples are doing so without any legal authority and in violation of fundamental rights guaranteed under the Constitution of India denying such rights selectively and only to the Hindu Citizens of this State.



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41. I respectfully submit that being left with no other efficacious and/alternative remedy to agitate the said issue, I am constrained to seek indulgence of this Hon'ble Court to set right the glaring irregularity of the presence of Executive Officers in Hindu Temples without any legally sustainable orders of appointment issued by the 2nd Respondent herein under any of the enabling provisions of the 1959 Act. The presence of such Executive Officers in the Hindu Temples is contrary to law. I am therefore, humbly, invoking the Writ jurisdiction of this Hon'ble Court under Art under Article 226 of Constitution of India and filing this Writ Petition for the following amongst other: -

GROUND

- A. The presence of Executive Officers, who are Government appointees, without any legal sanction, valid appointment orders and for an indefinite period of time is arbitrary, unreasonable and illegal.
- B. It is the law settled by Hon'ble Supreme Court of India that the appointment of Executive Officers ought to be made only if a case of mismanagement or maladministration has been identified on the part of the Trustees of the Temples and only for the purposes of curing such mismanagement. Therefore, any order appointing Executive Officers to the Religious Institutions must state the reasons warranting such an appointment.
- C. The absence of reasons in appointment of Executive Officer is in clear contradiction to the dicta of the Constitutional Bench of the Hon'ble Supreme Court of India, reported in AIR 1965 SC 1578 wherein it was held that a case must be made out for every appointment of an Executive Officer.



- D. Any appointment of Executive Officers cannot be for an indefinite period of time and the order of appointment must stipulate the period for which such an appointment shall subsist and therefore an order cannot run in perpetuity.
- E. The Constitutional Bench of the Supreme Court in *SGD Pandara Sannadhi* reported in AIR 1965 SC 1578 held that the administration of the temple can be taken over only if the administration is very bad and such a takeover can be only for a prescribed period.
- F. When an order of appointment of Executive Officer to a Hindu Temple that does not mention a period of operation is held by Hon'ble Supreme Court of India to be *ex-facie* arbitrary, illegal and unjust, the current presence of Executive Officers in Hindu Temples on expired orders is indubitably illegal as such appointees, otherwise appointed without any basis, have become *functi officio*. The Conditions for Appointment of Executive Officers Rules prescribe such appointments of Executive Officers for a period not exceeding five years at a time. None of the orders appointing Executive Officers to temples and endowments were renewed and nor can be renewed since only a current order can be renewed. A non-est order and/or illegal order cannot be renewed.
- G. Furthermore, by not ascribing reasons for appointing of an Executive Officer, the evil that is sought to be remedied is not known and therefore the very purpose of such an appointed is vitiated.
- H. Any law providing for takeover of management of a property under Article 31-A(1)(b) would not be deemed to violate Articles 14 and 19 of the Constitution of India. However, such laws would be still subject to scrutiny if any

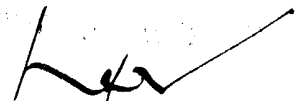
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fundamental rights of Sampradayas or sections thereof, guaranteed under Article 26, have been violated.

- I. Powers available to the Government to regulate under Article 25 or 31-A(1)(b) does not mean the instrumentalities of the Government can take over the management of Hindu Temples and control them for endless periods.
- J. The Government can only regulate the secular aspects of the administration of the religious institutions by laws which they can validly impose. Such laws cannot interfere with the Rights of the Trustees of the Sampradayic Temples to administer their religious institutions and the law should leave the administration in the hands of the Sampradhaya to which such temples belong.
- K. A deprivation of the right to manage a Hindu Temple by the Trustees and vesting such right in Government Executive Officers who are appointed by the Commissioner without mentioning the period for which such Executive Officers are appointed and without mentioning the reasons for making such appointments make a serious inroad upon the fundamental rights of the Trustees.
- L. All the records that are obtained under the Right to Information Act, 2005 would unequivocally demonstrate that in the orders appointing Executive Officers of the HR & CE Department to Hindu Temples, no case have been made out for such appointments or no period of operation of the order is prescribed in the said order. Such orders are not legally sustainable and are liable to be set aside.
- M. The Commissioner appointing Executive Officers to Hindu Temples of different denominations by using a pre-printed template and filling the names of the temples in the blanks and uniformly defining the powers of the Executive

Officers through another pre-printed form show that the 2nd Respondent Commissioner never applied his mind while appointing Executive Officers and he was doing this at the drop of a hat.

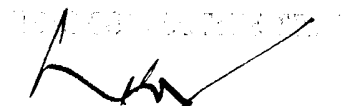
- N. Article 31-A(1)(b) would save the laws that permit takeover of the management of a property for reasons of better management or for public good but only for a limited period. Any takeover of a Hindu Religious Institution by an order that does not prescribe a limited period, or no period would be hit by this said Article 31-A(1)(b).
- O. An abrogation of a fundamental right by a law is not regulation but an annihilation of such right. While so, the annihilation of rights by fraudulent and unauthorised presence of Executive Officers are criminal encroachments by the Respondents in Hindu Places of Worship and designed to do away with the denominational and religious character of such Places of Worship. Such designs and actions are prohibited under the Places of Worship Act, 1991 and are offences punishable with imprisonment.
- P. Nor can the orders of appointment of Executive Officers be renewed as no case can be made out against the ousted Trustees who have not been in Management of such temples and endowments for more than 5 years. If for reasons of mismanagement the orders have to be extended, then it is only against the Executive Officers such mismanagement would be made out.
- Q. It is trite law that a legislation cannot condone or sustain an illegality or fraud. While so, the secondary legislation viz., Rules framed under Sections 43-A and 45 of the 1959 Act, cannot bestow legality to the Executive Officers who are



present in the temple before the conditions that were necessary to be prescribed under these sections were prescribed and notified.

- R. The continuing illegal presence of Executive Officers in Hindu Temples and Endowments and the Respondents controlling each and every aspect of administration of the religious and secular aspects of these temples have wreaked havoc on the welfare of the temples, their heritage and aesthetic values, the freehold and proper utilisation of their immovable properties, resulting in corrupt and inefficient administration of the temple affairs, diversion of temples funds and properties for non-temple purposes and even for anti-Hindu purposes. These are sustained annihilation of fundamental rights of Hindu Citizens of Tamil Nadu over the past 4 decades.
- S. It is trite law that secondary legislation viz. the Rules known as “Conditions of Appointment of Executive Officers Rules” or any part thereof cannot be bestowed retrospectively on appointment orders of Executive Officers to Hindu Temples when the primary legislation viz., Sections 43-A and 45 of the 1959 Act do not confer retrospectivity.
- T. The words “*Nothing contained in these rules shall adversely affect the powers of the Executive Officer, who has been holding the post immediately before the date of the commencement of these rules*” found in Rule 10(1) of the “Conditions of Appointment of Executive Officers Rules” framed under Sections 43-A and 45 of the 1959 Act cannot be said to make valid and lawful, the invalid and fraudulent presence of Executive Officers in Hindu Temples functioning without any orders or under invalid orders. Such an assumption would be bizarre and inimical to basic jurisprudence.

- U. Any statutory provision which interferes with constitutional rights directly or indirectly will receive a strict and close scrutiny, in order that alien purposes, undisclosed reasons or disguised considerations do not prompt actions which so infringe fundamental rights.
- V. Continuing presence of the Executive Officers beyond five years or more without any prescribed time limit under Sections 43-A or 45 of the 1959 Act can thus stated to be arbitrary provision uncanalised in scope and unrestricted in its application and impact. This seriously violates the Fundamental Rights guaranteed under Articles 14, 25 and 26 of the Constitution of India.
- W. The above-mentioned violations can not only be restricted to being violative of the Constitutional Rights and Statutory framework, but are also in clear violation of the Principles of Natural Justice and on this ground alone the prayer ought to be allowed.
- X. The Petitioners reserve their right to file additional grounds, subject to the leave of this Hon'ble Court.
42. I respectfully submit that the 2nd petitioner is the President of the 1st Petitioner Trust in order to avoid any technical objections.
43. In the circumstances, it is prayed that this Hon'ble Court may be pleased to permit the petitioners to file a single writ petition under Rule 15 of the Madras High Court Writ Rules, 2021 and thus render justice.
44. I respectfully submit that pending the disposal of the instant writ petition it is necessary that the Respondents produce the orders of appointment of the 628



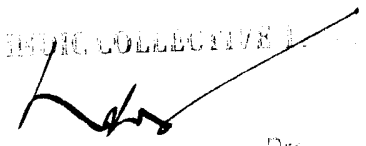
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Executive Officers in various Temple and restraining the Executive Officers from taking out any major decisions with regard to the said Temples, in order to secure the interests of devotees and the Deities of the Temples, pending the disposal of the writ petition, since the balance of convenience also lies in our favour.

45. In the circumstances, it is prayed that this Hon'ble Court may be pleased to issue an order of interim direction, directing the Respondents to furnish all the orders of appointment of all the 628 Executive Officers in various Temples in the state, pending disposal of the above writ petition and thus render justice.

46. In the circumstances, it is prayed that this Hon'ble Court may be pleased to issue an order of interim injunction restraining the respondents, their men, agents and their subordinates, namely the Executive Officers or any other officers of such Temples and the Respondents Department from in any manner incurring any expenditure from the funds of these temples, except for the routine expenses such as salaries, performance of rituals, Poojas, festivals, salaries and Annadhanam, pending the disposal of this Writ Petition and thus render justice.

For the aforementioned reasons, it is prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction, directing the Respondents to recall all Executive Officers who are functioning without valid appointment orders, without valid reasons for their appointment or appointed under Section 43-A or 45 or have been appointed before the Conditions for Appointment of Executive Officers Rules, 2015 was notified and order handover of the temples to the trustees/communities/sampradhayas (or their descendants) from whose hands the temples were taken over by the authorities in the Hindu Religious and Charitable



Endowments Department and pass any such further or other orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Chennai on this



President

Before Me

the 30th day of January, 2022 and he

having signed his name in my presence.

Notary, Chennai