BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.05.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P No.20764 of 2026

T.R.Ramesh ... Petitioner

Vs.

1. The State of Tamil Nadu,
   Rep. By its Secretary,
   Religious Endowments Department,
   Fort St. George, Chennai – 600 009.

2. The Commissioner,
   Hindu Religious and Charitable
   Endowments Department,
   Nungambakkam, Chennai – 600 034.

3. The Fit Person / Executive Officer,
   Sri Parthasarati Temple,
   Triplicane, Chennai – 600 005. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1 and 2 from appointing or continuing an Executive Officer appointed under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 or any other Government official or the second respondent's subordinate as “Fit Person” of a temple, religious institutions under its administration including the Sri Parthasarathy

Swamy Temple, Triplicane, Chennai.

For Petitioner : Mr.Niranjan Rajagopalan,
for M/s.G.R.Associates.

For Respondents : Mr. P.V.Balasubramaniam,
Additional Advocate General,
assisted by Mr.Mohammed Fayaz Ali,
Government counsel for R-1 & R-2.

Mr.A.K.Sriram, Senior counsel,
for M/s.A.S.Kailasam & Associates
for R-3.

* * *

O R D E R

Heard both sides.

2.This writ petition has been filed in public interest. The petitioner is a well known activist. He has been consistently campaigning for proper administration of the temples in Tamil Nadu. Though the writ prayer is rather sweeping and general, the focus is more on Shri Parthasarathy Swamy Temple, Triplicane, Chennai.

3.The learned counsel for the writ petitioner points out that for the last several decades, the administration of the temple is vested in the Executive Officer appointed by the HR&CE Department. The said Executive Officer also doubles as the fit person. The petitioner contends that the said situation ought not to continue any further.

4.When the matter was taken up for hearing, the learned Additional Advocate General pointed out that the appointment of the Executive Officer is traceable to a judicial order passed in the year 1982 and that therefore, it cannot be faulted. He, however, submitted that the trustees will be appointed for the said temple as expeditiously as possible, in any event, within a period of six months. He requested this Court to record this undertaking and close the writ petition.

5.We went through the affidavit filed in support of the writ petition and also the materials enclosed in the typed set of papers besides the precedents cited at the Bar. Three issues arise for our consideration:-

> "i)Whether Shri Parthasarathy Swamy Temple, Triplicane, Chennai can continue to be under the administration of the Executive Officer-cum-fit person?
>
> ii) Whether the Executive Officer can also double as Fit Person?
>
> iii) What are the limits of the power of an Executive Officer appointed under Section 45 of the

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959?"

6.Shri Parthasarathy Swamy Temple is an ancient Vaishnavite temple in Chennai. A scheme was framed for the administration of the temple in C.S No.527 of 1924. It provided for appointing three trustees; One shall be a Brahmin, one shall be an Arya Vaishya (Komati) and one who is neither a Brahmin nor an Arya Vaishya. The trustees were to hold office for a period of five years. Trustees were to be elected. The membership of the electoral college had also been specified. While so, subsequently, modifications were made in the scheme in O.A No.55 of 1961 by the Deputy Commissioner for HR&CE (Admn.), Chennai. Since dispute arose with regard to the temple administration, C.S.No. 240 of 1976 came to be instituted on the original side of the Madras High Court. Interim injunction was granted restraining the HR&CE Department from appointing any trustee of the temple. It was further directed that the existing Executive Officer should continue to hold office and also act as fit person. This order was passed by the Hon'ble Division Bench of this Court vide order dated 11.05.1982 in C.M.P.No.1343 and 6366 of 1982 in O.S.A.No.15 of 1982.

7.The learned Additional Advocate General is factually right in his submission that the continuance of the Executive Officer and the combining of the functions of the Executive Officer-cum-Fit Person in one person is traceable to the aforesaid order passed by the Hon'ble Division Bench. But the question is whether the order passed way back in the year 1982 can still hold good. It is not in dispute that what was passed was only an interim order in an appeal. This appeal itself appears to have been disposed of in the year 1991. An order passed under Order 39 Rule 1 and 2 CPC cannot have an independent existence *de hors* the appeal ; it can survive or can be continued only during the pendency of the appeal. Whether the appeal was disposed of on merits or for default is not really relevant. Once the appeal has been disposed of, the life of the interim order comes to an end. Law contemplates that the interim order operates only till the main matter is disposed of one way or the other (***Ramesh Ramaji Akre Vs. Mangalabai and Ors.*** **(2002) SCC OnLine Bom 376)**. We, therefore, hold that the temple administration cannot continue to be run by the Executive Officer-cum-Fit Person by citing the aforesaid interim order passed by the Hon'ble Division Bench. We categorically hold that the said interim order ceased to have effect long ago.

8.The next question that calls for consideration is whether the functions of an Executive Officer and that of a Fit Person can be vested in one person. In other words, the question is whether the Executive Officer can double as a Fit Person. We would hold that under exceptional circumstances, for a very brief duration in the interest of the temple administration, the Executive Officer can also function as the Fit Ferson. The administration of the temple has to vest only in the Board of Trustees. If due to certain exigencies, there is vacancy in the office of the trustee, a Fit Person is appointed. In the very nature of things, a Fit Person is appointed only as an interim arrangement. It is an adhoc measure.

9.An Executive Officer may be appointed under Section 45 of the HR&CE Act 1959 by the Commissioner. Before making the appointment, the authority must be satisfied that the circumstances set out in Rule 3 of the Conditions for appointment of Executive Officers Rule, 2015 exist. The said Rule reads as follows:-

> "3. Where the Commissioner either suo-motu or upon the report received from the Joint Commissioner or

Deputy Commissioner or Assistant Commissioner having jurisdiction, considers it necessary,-

(i) that in the interest of and ensuring better, proper and efficient administration and management of any religious institution; or

(ii) that he has reason to believe that there is persistent default in administering the affairs of any religious institution in accordance with the provisions of the Act and the rules framed thereunder; or

(iii) that there is irregularities, malfeasance, misfeasance or breach of trust; or

(iv) that there is malpractice, maladministration, mismanagement in any religious institution; or

(v) that there is misappropriation of or improper dealing with the funds and the properties of the religious institution; or

(vi) that there is gross neglect of any duty on the part of the trustee; or

(vii) that there is willful disobedience of the lawful orders issued under the provisions of the Act by the authorities under the Act or by the trustee; or

(viii) that if the trustee opts for the appointment of an executive officer to assist him in the better administration and development of the religious institution; or

(ix) that any scheme settled or deemed to have been settled to any religious institution under the provisions of the Act contains a clause as such; or

(x) for any other reason,

the Commissioner may, after holding such inquiry as he may consider it necessary and expedient, in the interest of such religious institution, by order, 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."

Rule 4(a) specifically mandates that the Executive Officer shall function along with trustee. According to Rule 14 of the Functioning of the Board of Trustees Rules, the Executive Officer shall carry into effect the decisions of the Board of Trustees after obtaining the orders of the competent authority on individual subjects. Thus, when the statutory scheme envisages that the Executive Officer would work along with the trustee, it obviously means that there must be two persons, namely, the E.O and the Trustee. If both the functions are combined in a single person, the system of checks and balances would vanish. If the Executive Officer is also acting as a fit person, thus supplanting the trustee, that would be against the statutory scheme particularly, Rule 4(a) of the Rules, 2015. Lord Acton presciently remarked that power tends to corrupt and absolute power corrupts absolutely. There are quite a few temples whose annual budgets run into several crores of rupees. If there is a multi member trust board and also a Government official acting as Executive Officer, that would ensure that power is properly exercised. If there is no Trust Board and the Executive Officer is also asked to act as a Fit Person, such state of affairs would not be conducive to a proper administration. We, therefore, hold that the Government or the Commissioner of HR&CE Department ought not to vest the power of Fit Person in the Executive Officer of the same temple. If such a situation is unavoidable, such an arrangement ought to be terminated at the earliest (*vide* order dated 22.09.2020 in W.P.(MD) 10903 of 2020).

10.The learned counsel for the petitioner strongly insisted that the Executive Officer should be cautioned against interference in the religious aspects of the temple administration.

11. An Executive Officer is appointed only under Section 45(1) of the Act. Section 45(2) of the Act is as follows:-

" ***45. Appointment and duties of Executive***

> ***Officers.—(1) …***
>
> *(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 in subsection (1) shall be assigned to the executed officer.”*

The plain meaning of the aforesaid provision is to the effect that the Executive Officer can exercise functions only in respect of the properties of the temple. The statutory provision itself is so clear and categorical. The expression “only” found in the proviso to Section 45(2) of the Act is significant. In other words, what is contemplated in the proviso is that no other power can be exercised. It forbids the Executive Officer from interfering in the religious aspects. The Executive Officer cannot deal with any aspect of temple administration that partakes of a religious character. The expression “properties” would of course include both immovable and movable properties. The movable properties would pertain to income also. Thus, the power of the Executive Officer cannot go beyond the administration of the properties of the temple. The third issue is also answered accordingly.

12.The question before us is not the scope of the regulatory power exercisable by the State. On the other hand, the question formulated for our consideration is regarding the extent of interfence by the Executive Officer appointed under Section 45 of the Act by the Commissioner. Answer to this question does not lie in the precedents. On the other hand, it lies in the proviso to sub-section 2 of Section 45 of the Act.

13.An area even slightly tinged with religious elements is a no go zone for the Executive Officer. What is religious activity requires no delienation. Suppose Kumbhabisekam has to be conducted, the date, timings, and the manner of performing the consecration ceremony are purely religious aspects. Anything that has to do directly with worship falls within the realm of religion. We make it clear that the Executive Officer of the temple cannot interfere with the religious activities, customary practices and traditions of the temple. That has to be necessarily carried out only by persons who are well versed with the customs and traditions of the temple concerned.

14.With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S, J.) & (V.L.N, J.)

29th May 2026

NCC : Yes
Index : Yes
Internet : Yes
PMU/skm

To:

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