

2. I submit that I have come forward with this instant Writ Petition against the inclusion of 'Brahmin Caste' as one of the qualification to work as a Cook (Paricharakar) in the Respondent Temple in violation of the Constitution of India, the Rules governing the service conditions of Temple employees and the principle '*The Constitutional legitimacy, naturally must supersede all religious beliefs and practices*' as enunciated by the of the Hon'ble Supreme Court in Adi Saiva Sivachariyargal case reported in 2016 (2) SCC 725.

3. I submit that I am a devote Hindu and after completing my 12th standard I joined Saiva Archagar Certificate course conducted by the Respondent Department in the year 2007-2008. I completed the said course successfully and am issued with a certificate as Junior Saiva Archagar. I am well trained in conducting Poojas and all religious rituals and ceremonies in Saivite temples. I have also studied for Arutchunaignar Diploma conducted by the SRM University, Chennai and obtained the said Diploma with distinction in the year 2012. Besides I have undergone training in Arulmighu Arunachelaswarar Thirukoil, Thiruvannamalai for one year as Archaga. With such qualification I am entitled to be appointed as an Archagar or other post connected to religious rites and rituals in all the Saivite temples.

4. I submit that I have taken up the cause to eradicate caste as a qualification to be a temple servant and that I was one of the party impleaded before the Hon'ble Supreme Court in Adi Saiva Sivachariyargal case wherein the Supreme Court rendered a land mark Judgment holding that the fundamental right guaranteed under the Constitution would be violated if any Hindu is proscribed from being appointed as Archaka on the basis of caste or class.

5. I submit that when the above case was pending before the Hon'ble Supreme Court, I filed a Writ Petition in W.P.No.2812 of 2011 before this Hon'ble Court challenging the Notification issued by the Respondent Department to appoint certain servants in Arulmighu Aruchalaeswarar Temple in Thiruvannamalai wherein the Brahmin Caste was stipulated as a qualification. This Hon'ble Court in view of the pendency of Saiva Sivachariyargal case before the Supreme Court kept the Writ Petition pending by Order dated 07/02/11 but directing that any appointment to be subject to the result of the Writ Petition pending before the Supreme Court. The Notifications were later withdrawn by the Respondent Department and that the Writ Petition had become infructuous.

6. I submit that subsequently I filed another Writ Petition in W.P. (MD)No.4124/13 before this Hon'ble Court challenging the Notification of the Respondent Department regarding the appointment of certain temple servants in Srirangam, Arulmighu Aranganathaswamy Thirukoil on the premise that Brahmin caste was stipulated as one of the qualification. This Hon'ble Court by interim Order dated 20/03/13 stayed the said notification. The Respondent Department subsequently withdrawn the Notification and that the Writ Petition was closed on 02/08/19.

7. I submit that though I have taken up the cause for the appointment of the Archakas from all castes I have not been appointed at any Temple as that this scourge of caste discrimination still exists in all major temples in the State of Tamilnadu. Hence I am forced to take up other avocations but with my zeal for casteless society at least in the Temples, I have come forward with this Writ Petition in public interest litigation. I have no personal interest other than what is explained above. I am working as Graphic designer. My annual

income is Rs.50,000/-. I am not an Income Tax Assessee and my Aadhar Card No.712926874972. I have not filed any other writ petition for the same cause of action. I am meeting the expenses of filing this Writ Petition from my own money and from that of my colleagues. I am ready to bear the costs that may be imposed on me in the event that the Hon'ble Court finds that this Writ Petition is frivolous and an abuse of process of Court.

8. I submit that the Respondent temple is a public temple, and its administration is supervised by the Respondent Board in accordance with the provisions of the Tamilnadu Act 22 of 1959. The Temple is presently administered by a Fit person in the place of Board of Trustees and an Executive officer who are Respondent 3 and 4. The Respondent temple is Saivite temple and been showering blessings upon all the worshippers irrespective if caste or class.

9. I submit that the Government framed rules for the conditions of service of the temple employees in Tamil Nadu and is known as the Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020. The said Rules comprehensively provides for all matters concerning the conditions of service including their qualification., The Annexure II to the said Rule provides for the method of appointment and qualification of employee in Senior grade temples and category XIV and category XV provides for the post of the Cook, Paricharakar , Neivaidhiyam and Assistant Cook and Assistant Paricharakar. The prescribed qualification is eligibility to read and write in Tamil and knowledge in preparing the Neivedhiyam and Prasatham according to the customs and usages prevailing in the temple.

10. I submit that on 12/01/21 the Respondents issued a Notification calling for application from candidates to be appointed for various post in the Respondent temple. However in the said Notification for the post of cook and Neivedhiyam apart from the qualification prescribed under the above said rules, Brahmin caste is also prescribed as one of the qualification. Such prescription in the Notification has the effect of proscribing many qualified candidates who have the zeal to do God's service from applying for the said posts. The prescription of such caste as qualification for the post of Temple cook is unconstitutional, illegal and in the said premise I have come forward with this Writ Petition for seeking necessary direction before this Hon'ble Court for the following among other

GROUNDS

- a. It is submitted that the prescription of Brahmin caste as qualification for the post of Cook and Neivedhiyam in the Respondent Temple is unconstitutional, illegal and arbitrary and without application of mind.
- b. It is submitted that the Respondents have no right to prescribe any condition more than what is prescribed under the provisions of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020
- c. It is submitted that even in the appointment of Archagas, the Hon'ble Supreme Court in Saiva Sivachariyargal case has stated that "*in this regard it will be necessary to re-emphasis that the exclusion of some and inclusion of particular segment and denomination for appointment as Archagas would not violation of Article 14 so long such inclusion / exclusion is not based on the criteria of caste, birth or any other unconstitutionally unaccepted parameter*".

d. It is submitted that the Hon'ble Supreme Court further states *that "surely, if the Agamas in question do not proscribe any group of citizens from being appointed as Archakas on the basis of caste or class the sanctity of Article 17 or any other provisions of part III of the Constitution or even the Protection of Civil Rights Act, 1955 will not be violated"*. Hence the caste cannot be made as criteria and even if caste been prescribed by Agamas the same would violate the Constitutional guarantee.

e. It is submitted that in any case in the working of Cook, Parichakar, Neividhiyam the caste cannot be prescribed as a qualification particularly when the term Brahmin caste is not defined under any of the Statute or Rule.

f. It is submitted that under the provisions of Tamil Nadu Act 45 of 1994 it is mandatory that the reservations in the appointments or posts for services under the state to the Backward Class, Most Backward Class, Scheduled Caste and Scheduled Tribes is to be given. This notification has not provided for any reservation. Similarly in respect of the services in all the temples under the control of Respondent Department the reservation is not been provided as mandated under provisions of Tamil Nadu Act 45 of 1994.

g. It is submitted that the temple and endowments are authorities in respect of which the state legislature has power to make laws and has made the law and rules governing the service conditions and as such the mandate of Tamil Nadu Act 45 of 1994 is applicable to the post governed under the provisions of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020.

h. It is submitted that the Government is entitled to make laws in respect of the administration of Temples and that has already made and the Rules on

the conditions of services of the employees. Hence, it is necessary to provide reservation as mandated under the provisions of Tamil Nadu Act 45 of 1994. However, in all the notifications issued by the Respondent department for appointment as temple servants, the reservation is not being provided neither the roaster is followed.

11. It is submitted that having regard to the facts and circumstances I have no other remedy except to invoke the jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

12. I submit that in the said circumstances, I am not having the original copy of the impugned Notification issued by the Respondents dated 12/01/21, hence the production of the original may be dispensed with and also the further proceedings of the impugned Notification passed by the Respondents dated 12/01/21 have to be stayed or otherwise I will be put to irreparable loss and hardship.

I therefore pray that this Hon'ble Court may be pleased to dispense with the production of the certified copy of the impugned Notification dated 12/01/21 on the file of the Respondents No.3 and 4 pending for the present and thus render justice.

I therefore pray that this Hon'ble Court may be pleased to pass an order of interim Stay of all further proceedings of the impugned Notification dated 12/01/21 on the file of the Respondent No.3 and 4 pending disposal of the above Writ Petition and thus render justice.

I therefore pray that this Hon'ble Court may be pleased to issue a writ, order or direction in the nature of a writ of Certiorarified Mandamus, to call for

the records of the impugned Notification dated 12/01/21 on the file of the Respondent No.3 and 4 and to quash the same and further directing the Respondents not to prescribe caste as qualification for the appointment of the posts governed under the provisions of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020 and provide reservation in accordance with the provisions under the Tamil Nadu Act 45 of 1994 and pass such further or other orders as this Hon'ble Court may deem fit proper in the said circumstances of this case and thus render justice.

Solemnly affirmed at Madurai]	
On this 19 th day of February, 2021]	
and the contents of the affidavit is translated]	
and explained in Tamil who having understood]	
the same put his signature in my presence]	Before me,

Advocate: Madurai