



W.P(MD)No.17107 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.17107 of 2015
and
M.P.(MD)Nos.1 & 2 of 2015**

Sivakasi Hindu Poorviga Agamudayar
Uravinmurai Mahamai Fund Arakkatalai
97-A, Thiruthangal Road,
Near Thevar Statue, Sivakasi-626 123,
Virudhunagar District,
Rep. by its President.

... Petitioner

Vs.

- 1.The District Registrar (Societies)
Virudhunagar District,
Virudhunagar.
- 2.Poorviga Hindu Agamudayar Mahamai Fund-Sivakasi,
Rep. by its Secretary, M.Muthukumar
816, Parasakthi Colony, Sivakasi-626 123.
- 3.N.S.A.Amuthan S/o.Arumugasamy,
President,
Poorviga Hindu Agamudayar Mahamai Fund-Sivakasi,
72 C Karuppananan Street, II Flood,
Sivakasi-626 123.
- 4.M.Muthukumar, S/o.V.S.Murugesan,
Secretary,
Poorviga Hindu Agamudayar Mahamai Fund-Sivakasi,
816, Parasakthi Colony,
Sivakasi-626 123.



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5.M.Manavalan S/o.Muniyandi Thevar
Treasurer,
Poorviga Hindu Agamudayar Mahamai Fund-Sivakasi,
20 B Marudupandiyar Maduthu East Street,
Sivakasi-626 123.

6.The Secretary to Government,
Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Chennai.

... Respondents

(R6 is suo motu impleaded vide order dated
21.07.2023)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to registration of the 2nd respondent in the name Poorviga Hindu Agamudayar Mahamai Fund Sivakasi assigning registration No.122 of 2015 on 27.07.2015 by District Registrar (Societies), Virudhunagar District, Virudhunagar, the 1st respondent herein and quash the same.

For Petitioner : Mr.C.Meenakshiramaprabhu
for Mr.A.V.Arun

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.S.Shanmugavel
Additional Government Pleader R1 & R6

: Mr.J.Jeyakumaran for R2 to R5



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ORDER

Heard both sides.

2. The writ petitioner was registered as a society in the year 1992. Questioning the registration of the second respondent on the ground that its name is similar, the present writ petition came to be filed.

3. It is not in dispute that the writ petitioner was registered under the provisions of the Tamil Nadu Societies Registration Act, 1975 under Serial No. 163/1992 by the first respondent. Its address was mentioned as 'Thevamar Madam, 88, Sundara Thevar Street, Sivakasi'. It is known by the following name :-

"Sivakasi Hindu Poorviga Agamudayar Arakattala"

The second respondent's name "Poorviga Hindu Agamudayar Mahamai Fund-Sivakasi" nearly resembles the petitioner's name. Its address has also been mentioned as '88, Sundara Thevar Street, Sivakasi'. Section 9(1)(c) of the Act states that no society shall be registered by a name which is identical with, or too nearly resembles, the name by which a society in existence has been previously registered. Since the first respondent failed to bear in mind the aforesaid statutory mandate, the registration of the second respondent society is set aside.



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4.The matter cannot rest there. Section 3(1) of the Act states that any society which has for its object the promotion of education, literature, science, religion, charity, social reform, art, crafts, cottage industries, athletics, sports (including indoor games) recreation, public health, social service, cultural activities, the diffusion of useful knowledge or such other useful object with respect to which the State Legislature has power to make laws for the State, which may be prescribed, may be registered under this Act. The object of the petitioner as seen from its bylaws is to cater to the interests of a particular community. Section 3(1) of the Act does not envisage registration of any society on caste basis. Our Constitution envisages a casteless society. In ***ABSKS v. UOI (1981) 1 SCC 246***, Justice Krishna Iyer observed that the fighting faith in a casteless society is a constitutional value. In ***Arumugam Servai v. State of Tamil Nadu (AIR 2011 SC 1859)***, it was observed that the caste system is a curse on the nation and the sooner it is destroyed the better and that it is dividing the nation. Emphasis on caste identity is opposed to the principle of fraternity proclaimed in the preamble of the Constitution and a tacit acknowledgement of the "otherness" of each one's identity (***Prathvi Raj Chauhan v. UOI (2020) 4 SCC 727***). As early as in 1959, the Hon'ble Supreme Court referred to the exclusive character of the caste system and hoped that the position will change and in course of time, the cherished ideal of the casteless society truly based on social equality will



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be attained (**V.V.Giri v. D.Suri Dora, AIR 1959 SC 1318**). I wondered as to how bodies dedicated to espousing the cause and interests of castes can be registered as societies under the Act. I called upon the Government to respond. The Secretary to Government, Commercial Taxes and Registration Department, Government of Tamil Nadu has filed an affidavit before this Court stating that only those societies whose objects are statutorily recognized can be registered and that instruction will be given to societies to amend their Memorandum and Bylaws so as to ensure that their object is not to serve the welfare of only particular castes. It is further undertaken that suitable instructions will be issued to all the Registrars to identify the societies under their jurisdiction which have been named in the name of particular castes.

5.Recording the stand of the Government, direction is issued to honour the undertaking within twelve weeks from the date of receipt of copy of this order.

6.The writ petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2023

Index : Yes / No
Internet : Yes/ No
rmi/skm



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To

- 1.The District Registrar (Societies)
Virudhunagar District, Virudhunagar.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Chennai.



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