



W.P.(MD)Nos.19508 of 2020 and 1515 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 19.07.2024

DELIVERED ON : 30.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)Nos.19508 of 2020 and 1515 of 2021

and

W.M.P.(MD)Nos.800, 1299, 1300, 1780, 4280
and 4360 of 2021

W.P.(MD)No.19508 of 2020:

The Tiruchirappalli District Cricket
Association,
represented by its Secretary
P.Ilangovan.

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.

2.The District Registrar of Societies,
District Registrar Office,
Tiruchirappalli.

3.N.Vadivel,
Secretary,
Krish Cricket Club,



W.P.(MD)Nos.19508 of 2020 and 1515 of 2021

No.7, Mahalakshmi Nagar,
First West Street,
Thanjavur Road,
Trichy-6.

4.Swaminathan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.5039/Aa3/2018, dated 04.02.2019 and quash the same.

For Petitioner : Mr.T.Mohan
Senior Counsel
for Mr.M.Saravanan

For Respondent : Mr.V.Om Prakash
Government Advocate
for R.1 and R.2
: Mr.K.Prabhakar
for R.3
: Mr.H.Lakshmi Shankar
for R.4

W.P.(MD)No.1515 of 2021:

The Tiruchirappalli District Cricket
Association,
represented by its Secretary
K.Sanjay

... Petitioner

Vs.



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1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Commercial Taxes and Registration
Department,
Fort St.George,
Chennai-600 009.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.

3.The District Registrar of Societies,
District Registrar Office,
Tiruchirappalli.

4.N.Vadivel,
Secretary,
Krish Cricket Club,
No.7, Mahalakshmi Nagar,
First West Street,
Thanjavur Road,
Trichy-6.

5.Swaminathan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent in No. 2457/I2/2017, dated 08.01.2021 and quash the same.

For Petitioner : Mr.T.Mohan
Senior Counsel
for Mr.M.Saravanan



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For Respondent : Mr.V.Om Prakash
Government Advocate
for R.1 to R.3
: Mr.K.Prabhakar
for R.4
: Mr.H.Lakshmi Shankar
for R.5

COMMON ORDER

The Writ Petition in W.P.(MD)No.19508 of 2020 is directed against the order dated 04.02.2019, passed by the second respondent setting aside all the proceedings of the petitioner association including the amendments made to the byelaws, inclusion of new members and the deletion of members.

2. The Writ Petition in W.P.(MD)No.1515 of 2021 is directed against the order dated 08.01.2021 passed by the second respondent therein recommending for appointment of a Special Officer for the petitioner association.



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3. The petitioner association is a registered Society under the Tamil Nadu Societies Registration Act, registered on 25.09.2006 with Registration No.147/2006. The petitioner association is affiliated to the Tamil Nadu Cricket Association. The General Body of the petitioner association comprises of individual life members, patrons, league clubs, associations and institutions or Body Corporate playing cricket. The main object of the petitioner association is to promote cricket. It is not in dispute that though the association came to be formed in the year 1957 as an unregistered society, they had celebrated their Golden Jubilee in the year 2008-2009. The respondents 3 and 4 in W.P.(MD)No.19508 of 2020, who are the respondents 4 and 5 in W.P.(MD)No.1515 of 2021 were the Secretaries of Cricket Club namely Krish Cricket Club and Srirangam United Cricket Club respectively and as such, they were members of the petitioner association.

4. It is evident from the records that as usual in our Indian society, problems started to erupt in the petitioner association, when the accounts for the Golden Jubilee celebrations was sought for. It is not in dispute that the private respondents (respondents 3 and 4 in W.P.(MD)No.19508



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of 2020 and respondents 4 and 5 in W.P.(MD)No.1515 of 2021) along with some others have raised charges against the management of the petitioner association and that they have made complaints to the District Registrar (Societies), filed suits before the civil Court and the writ petitions before this Court.

5. It is the specific contention of the petitioner that since the private respondents have made wild, baseless and scandalous allegations against the association, disciplinary proceedings came to be commenced and they were imposed with ban for particular period and that they have again raised baseless and scandalous charges, a resolution came to be passed in the General Body Meeting imposing life ban on the private respondents and some others. But according to the private respondents, that ban was imposed against them individually and not against their Cricket Clubs and that therefore, the Clubs are continued to be the members of the petitioner association.

6. The main complaint of the private respondents is that originally they were only 46 members in the petitioner association, that admission



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of members were not done properly since 2009 and Form VI and Form VII with respect to admission of new members and the amendment of byelaws have not been accepted since 2011 by the office of the District Registrar (Societies), but the petitioner association has been claiming that it has 179 life members apart from the then existing 46 members. It is their further complaint that there were several irregularities, malfeasance, misfeasance and mismanagement in running the affairs of the petitioner association and that therefore, they have submitted a representation to the Registrar of Societies, Trichirappalli on 06.11.2012 to look into the matter and to take appropriate action.

7. It is their further case that the Registrar of Societies, based on their complaint, conducted a detailed enquiry on 08.06.2015 and on 14.07.2015, that the petitioner association appeared before the Registrar of Societies and made a novel claim that there were 176 members in addition to 46 members, that though the Registrar directed the petitioner to furnish the details about the induction of the so called 176 members, they have failed to produce the documents, that the petitioner association called for an Annual General Body Meeting on 20.09.2015 with main



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agenda to approve and declare the said 176 persons as life members of the petitioner association, that the third respondent – Vadivel immediately addressed a letter to the Registry on 01.09.2015 objecting to the conduct of the Annusal General Body Meeting with strangers as members and in the meeting held on 20.09.2015, he raised objections to the presence of the strangers in the meeting, which resulted in confusion and chaos and the meeting was adjourned abruptly, that the petitioner society has again issued a notice for the Annual General Body Meeting on 11.09.2016 and the main agenda was to confirm the minutes of the earlier Annual General Body Meeting on 20.09.2015, which had been adjourned without any discussion or voting and therefore, he was constrained to file the Writ Petition in W.P.(MD)No.12395 of 2016 before this Court restraining the petitioner society from treating 176 members as life members of the society, that this Court vide order dated 09.09.2015 holding that since the enquiry relating to the admissibility of 176 members was pending before the District Registrar of Societies, the District Registrar was directed to complete the enquiry within four weeks after giving an opportunity to the petitioner and all other parties concerned and the District Registrar, after conducting enquiry has



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submitted a report to the Inspector General of Registration, dated 11.11.2016 holding that the various irregularities alleged against the petitioner society were proved, that the Inspector General of Registration, after the receipt of the report dated 11.11.2016, directed the District Registrar to conduct enquiry after due notice to the society and to pass orders after receiving the objections from the society and that the District Registrar had once again conducted an enquiry after receiving the objections from the petitioner society and from others and passed the impugned order dated 04.12.2019 reiterating the earlier findings of the malfeasance, misfeasance and irregularities in the society.

8. Aggrieved by the said order dated 04.12.2019, W.P.(MD)No. 19508 of 2020 came to be filed by the petitioner association. The main contention of the petitioner society is that the District Registrar has passed a vague order setting aside all the proceedings without even specifying the same, that the District Registrar has completely lost sight of the fact that the petitioner had submitted all their annual returns and the same are pending with them, that the District Registrar, without considering the petitioner's valid objections and without giving further



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opportunity to put forth their contentions and file documents, had hastily passed the impugned order, which is beyond the power and scope of the Societies Registration Act and that since the order of the District Registrar is ex-facie illegal, without jurisdiction, violative of principles of natural justice, they were constrained to file the present Writ Petition.

9. The District Registrar has filed a counter affidavit, disputing the petitioner's averments that in Form VI filed before the District Registrar for the year 2008-2009, they have shown 11 members, but in Form VI filed for the year 2009-2010, they have shown additional 48 members, who were alleged to have been admitted from 31.03.2006, that in Form VI submitted for the years 2006-2007, 2007-2008 and 2008-2009, the names of the said 48 members who have been admitted on 31.03.2006 were not found place and therefore, the admission of such members is against the bye-laws of the petitioner association as well as in violation of the provisions of Rule 17(2) of the Tamil Nadu Societies Registration Rules 1978, that the District Registrar has pointed out several defects in the annual report for the year 2010-2011, that the petitioner association itself admitted in their affidavit filed in support of their writ petition,



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mistakes in the returns filed before the Registrar of Societies with reference to the members of the petitioner association, that the allegations of the petitioner association that the impugned order came to be passed in violation of the principles of natural justice is false and untenable, that in pursuance of the enquiry notice dated 24.05.2018 issued by the District Registrar, the petitioner association submitted their reply denying the allegations and appeared for enquiry, that in the impugned order, the District Registrar, after narrating the enquiry proceedings chronologically summarized the complaint and the explanation given by the petitioner association, has passed a reasoned order, that the petitioner association has not raised any objection as to the locus standi of the private respondents or filed any appeal against the order passed in W.P.(MD)No.6864 of 2018 and as such, they cannot now contend that the private respondents have no right or locus stand to give complaint, that the second respondent has got powers under Section 36 of the Act to hold an enquiry into the constitution, working and financial condition of the petitioner society on his own motion and that since there are no merits in the writ petitions and the same are liable to be dismissed.



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10. It is evident from the records that on the basis of the complaint lodged by the private respondents and others against the management of the petitioner association, the District Registrar had conducted enquiry and submitted an elaborate report dated 11.11.2016 in Na.Ka.No. 4420/2015 to the Inspector General of Registration. It is further evident that the District Registrar, in the said report, has listed out the irregularities in the management / functioning of the petitioner association and with a finding that they are attempting to induct 176 life members, contrary to the bye-laws of the society.

11. It is not in dispute that the Inspector General of Registration, on the receipt of the report dated 11.11.2016, has sent a communication to the District Registrar, dated 02.03.2017 directing him to invite objections, conduct investigation under Section 36 of the Tamil Nadu Societies Registraion Act and resubmit the report along with the recommendations. It is necessary to refer the exact directions given by the Inspector General of Registration to the District Registrar which is as follows:



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“பார்வையில் காணும் மாவட்டப்பதிவாளர் கடிதம் பரிசீலிக்கப்பட்டது.

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தட்களது அறிக்கையில்

1) சட்கத்தினை மிரிவு 36(1)ன் கீழ் விசாரணைக்கு உட்படுத்தப்பட்டதற்கான விவரம் லேலை.

2) விசாரணையின் றுதி முடிவினை சட்கத்திற்கு அனுப்பி சட்கத்தின் பதிலறிக்கை / விளக்கம் பெறப்பட்டதற்கான விவரம் லேலை.

3) விசாரணையின் றுதி முடிவின் மீது சட்கத்தின் பதில் திருப்தி அளிக்கவில்லை என்றாலாஇ சட்கத்தின் நிர்வாகக் குழு முறையான செயல்பாட்டில் லேலை எனக் கருதினாலாஇ சட்கத்தின் செயல்பாடுகள் அதன் குறிக்காள்களை நிறுவுற்றுவதாக லேலை எனக் கருதினாலா மாவட்டப்பதிவாளரின் கண்டறிதல்களுடன் விரிவான அறிக்கை அனுப்பிட ுவண்டும்.

சேசட்கத்தின் செயல்பாடுகளில்இ நிர்வாக அமைப்பில் மற்றும் நிதி முறைகடுகள் உள்ளதாக மாவட்டப்பதிவாளர் கருதினால் சட்கப்பதிவுச் சட்டம் மிரிவு 36(1)ன்படி Suo motu விசாரணை ுமற்கொண்டு மிரிவு 36(9)ன் படி சட்கத்தின் பதிலறிக்கை பெற்று பின்னர் தனி அலுவலர் நியமன் அவசியம் என மாவட்டப்பதிவாளர் கருதினால் அரசுக்கு கருத்துரு அனுப்பும் வகையில் விரிவான அறிக்கை அனுப்பிட மாவட்டப்பதிவாளர் ுகட்டுக்கொள்ளப்படுகிறார்.”



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12. It is not in dispute that the fourth respondent in W.P.(MD)No. 19508 of 2020 (L.Swaminathan) has filed a writ petition in W.P. (MD)No.6864 of 2018 seeking a Writ of Mandamus directing the Registrar of Societies, Trichirappalli to complete the enquiry and forward the report to the Inspector General of Registration as directed by the Inspector General of Registration in his letter dated 25.01.2018 in regard to the illegal conduct of election on 30.09.2017 and this Court, vide order dated 28.03.2018, without going into the merits of the case and taking note of the directions issued by the Inspector General of Registration to the District Registrar to conduct enquiry and submit a report, the District Registrar was directed to conduct an enquiry, after issuing notice to the petitioner society and the private respondents and submit his report within a period of six weeks from the date of receipt of a copy of the said order. The District Registrar, by referring to the terms and conditions of the Inspector General of Registration and the direction of this Court, has passed the impugned order dated 04.02.2019 setting aside all the proceedings of the petitioner association, including the induction and deletion of members and also the amendments made to the bye-laws.



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13. The learned Senior for the petitioner would mainly raise a technical and legal plea that as per Section 36 of the Tamil Nadu Societies Registration Act, the Registry can hold enquiry into the constitution, working and financial condition of a registered society if a majority of the members of the committee of a society or if not less than 1/3rd of the members of the society move an application to conduct such an enquiry and relied on a decision of this Court in the case of **Mr.A.Samiappan Vs. The District Registrar** reported in **AIR 2007 (NOC) 2523 (MAD.)** and the relevant passage is extracted hereunder:

“7.I find force in the submissions of the learned counsel for respondents 3 and 5. Under Sec.36 of the Act 27 of 1975 the Registrar may hold an enquiry into the constitution, working and financial condition of a registered society if a majority of

the members of the committee of a society or if not less than 1/3rd of the members of the society move an application to conduct such an enquiry. Admittedly the writ petitioner alone has sent the notice dated 10.11.2005 calling upon the 1st respondent to exercise the powers given under [Sec.36](#) of the Act and to see that the affairs of the society are put in order



and to remove the persons who have been acting to the detriment of the society. Prior to the notice dated 10.11.2005, a representation dated 7.11.2005 was sent to 1st respondent and this representation was also made by the writ petitioner alone. In such circumstances, the 1st respondent cannot conduct an enquiry under [Sec.36](#) of the Act 27 of 1975 as neither the majority members of the committee nor not less than 1/3rd of the members of the society sent an application to conduct an enquiry.”

14. At this juncture, it is necessary to refer Section 36(1) of the said Act for hereunder for better appreciation:

"36.Power of Registrar to inquire into the affairs of registered society:- (1)The Registrar may, of his own motion or on the application of a majority of the members of the committee of a registered society or on the application of not less than one-

third of the members of that registered society, or, if so moved by the District Collector hold or direct some person authorised by the Registrar by order in writing in this behalf to hold, an inquiry, into the constitution, working and financial condition of that registered society.



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15. The provision itself clearly contemplates that the Registrar either of his own motion or on the application of a majority of the members of the committee of a registered society or on the application of not less than one-third of the members of that registered society, or if so moved by the District Collector, can hold inquiry into the constitution, working and financial condition of that registered society.

16. In the case on hand, the District Registrar by observing that he has suo motu conducted enquiry, passed the impugned order. Moreover, the Inspector General of Registration in his communication dated 25.01.2018 has also directed that if the Registrar is of the view that there were irregularities in the functioning and financial condition of the society, can conduct enquiry suo motu under Section 36(1) of the Societies Registration Act and after getting reply from the Societies under Section 36(9) of the Act, can make recommendations for appointment of Special Officer, if required and to submit a detailed report. Moreover, this Court in W.P.(MD)No.6864 of 2018 has also directed the District Registrar to complete the enquiry within a period of six weeks and to submit a report to the Inspector General of Registration.



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17. As rightly contended by the learned Government Advocate appearing for the official respondents and the learned Counsel appearing for the private respondents, just because the District Registrar has referred the complaints given by the private respondents and some others, that by itself is not a ground to treat the report of the Registrar, submitted on the basis of the enquiry conducted at the instance of the private respondents or some other members of the society. Considering the above, the present objection raised on behalf of the petitioner's side is devoid of substance and is liable for rejection.

18. The learned Counsel appearing for the private respondents would mainly contend that the writ petition itself is not maintainable as the petitioner has filed the writ petition challenging the orders passed two years ago, that the petitioner without availing efficacious alternative remedy of preferring an appeal, has invoked the writ jurisdiction and that the petitioner has suppressed the material facts and obtained interim order.



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19. As already pointed out, the impugned order came to be passed on 04.02.2019, but the writ petition came to be filed on 21.12.2010. As rightly pointed out by the learned Counsel for the private respondents, the present writ petition in W.P.(MD)No.19508 of 2020 is filed with the delay of more than 22 months and they have not offered any reason or explanation for approaching the writ Court with huge delay.

20. The learned Counsel for the private respondents would contend that the petitioner has filed the writ petition in W.P.(MD)No. 19508 of 2020 with sole intention to obtain some interim orders and on that strength to conduct the election of the new office bearers in the Annual General Body Meeting fixed on 29.12.2020, but in the affidavit, there is no whisper about the Annual General Body Meeting which was scheduled on 29.12.2020, by notice dated 07.12.2020, that the above material fact of an impending Annual General Body Meeting and the election of office bearers have been suppressed intentionally by the petitioner lest this Court would entertain suspicion over his motives and real intention behind the challenge to the order dated 04.02.2019 belatedly in December 2020.



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21. As rightly pointed out by the learned Counsel for the private respondents, in the affidavit filed in support of the writ petition or in the affidavit filed in support of the application for interim orders, the petitioner has nowhere whispered about the Annual General Body Meeting scheduled on 29.12.2020 and the proposed election of the office bearers. It is pertinent to note that this Court, considering the submission of the petitioner's side that the impugned order has been passed without holding enquiry, that the explanation of the petitioner has not been considered in the impugned order and that the impugned order has declared all actions taken by the petitioner society as invalid, has granted interim stay.

22. As rightly contended by the learned Counsel for the private respondents, if the petitioner had informed about the Annual General Body Meeting scheduled on 29.12.2020 and the proposed election, the interim stay would not have been granted. But the petitioner, by intentionally suppressing the above material facts, has misdirected this



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Court and obtained interim orders. It is settled law that jurisdiction of this Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ Court must come with clean hands and put forward all the facts before this Court, without concealing or suppressing anything and that if a litigant withholds some vital or relevant materials in order to gain advantage over the other side or to get any orders from the Court, then he would be guilty of playing fraud to the Court as well as to the other side.

23. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in the case of ***K.D.Sharma vs Steel Authorities Of India Ltd.& Others*** reported in ***(2008)12 SCC 481*** and the relevant passage is extracted hereunder:

“34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put



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forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.”

24. As already pointed out, the petitioner has purposely and intentionally suppressed the material facts with sole intention to get orders from the Court and on that basis to proceed with the Annual General Body Meeting. Hence this Court has no hesitation to hold that the petitioner has approached this Court with unclean hands and as such, he is not entitled to get the equatable and discretionary remedy from this Court.

25. As already pointed out, the petitioner has also taken a stand that the impugned order came to passed in violation of principles of natural justice. A cursory perusal of the impugned order dated 04.02.2019 would suggest otherwise. In the impugned order, the District



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Registrar has narrated all the events and the date on which, the petitioner has appeared in person and the date on which, he has received the copies of the documents and then to proceed with her decision. Hence, the contention that the petitioner was not given notice and was not given any opportunity to take part in the enquiry and as such, the District Registrar has violated the principles of natural justice, is absolutely devoid of merits and the same is liable to be rejected. Considering the above, this Court has no hesitation to hold that the order passed by the District Registrar cannot be found fault with.

26. Now turning to the Writ Petition in W.P.(MD)No.1515 of 2021, the petitioner has challenged the alleged order dated 08.01.2021, passed by the Inspector General of Registration. But as rightly contended by the learned Counsel for the private respondents and the official respondents, it is only a communication addressed by the Inspector General of Registration to the fourth respondent in W.P. (MD)No.19508 of 2020 and fifth respondent in W.P.(MD)No.1515 of 2021 informing him that he has already recommended for appointing Special Officer for the petitioner association.



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27. The learned Senior Counsel for the petitioner would mainly contend that when the interim stay granted by this Court in W.P. (MD)No.19508 of 2020 was in force, the Inspector General of Registration has passed the order recommending for appointment of Special Officer in total violation of the orders of this Court and on that ground alone, the order is liable to be set aside.

28. No doubt, when the interim order granted by this Court on 22.12.2020 was in force, the impugnd communication came to be issued by the Inspector General of Registration, but it is not known when the Inspector General of Registration has passed an order recommending for appointment of Special Officer to the petitioner association. As rightly contended by the learned Senior Counsel for the petitioner, if any such order came to be passed during the existence of the interim stay, then this Court has no other way, but to quash the said order. In the present case, admittedly the petitioner has not challenged the main order sent by the Inspector General of Registration recommending for appointment of Special Officer and the present challenge is only against the



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communication sent to the private respondent. As rightly contended by the learned Counsel for the official respondents, the petitioner cannot invoke writ jurisdiction against the communication sent to the private respondents.

29. The learned Counsel for the private respondents would contend that the petitioner has filed the Writ Petition in W.P.(MD)No. 1515 of 2021 only for the purpose of clogging the logical progress pursuant to the recommendation of the Inspector General of Registration by obtaining the interim orders and by preventing the State Government from exercising its statutory power under the enactment and that therefore, the writ petition is misconceived and has been filed only to delay the inevitable. I find much merit in the said contentions.

30. The learned Counsel for the private respondents has also brought to the notice of this Court that as the subsequent development, in the two writ petitions one filed by Anna Nagar Cricket Club and the other filed by one A.Senthilkumar in W.P.(MD)Nos.346 of 2022 and 23259 of 2023 respectively assailing irregularities in the conduct of



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election and in the general functioning of the petitioner association, a common order came to be passed on 25.09.2023 by this Court, wherein the proposed elections were quashed, by directing the Government to ensure that the directions issued in *S.Nithya Vs. Secretary to Government and others* reported in **2022(3) CTC 739**, as confirmed by the Hon'ble Division Bench in *the Secretary, Tamil Nadu Olympics Association Vs. S.Nithya and others* reported in **(2022) 5 MLJ 1**, are to be implemented in letter and spirit with regard to membership before conducting any election.

31. Taking note of the entire facts and circumstances, this Court is constrained to observe that all was not well with the petitioner's association and that since the writ petitions filed are devoid of merits, the petitioners are not entitled to get any of the relief claimed.

32. In the result, both the Writ Petitions are dismissed. Consequently, the Connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.



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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Commercial Taxes and Registration
Department,
Fort St.George,
Chennai-600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.
- 3.The District Registrar of Societies,
District Registrar Office,
Tiruchirappalli.



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W.P.(MD)Nos.19508 of 2020 and 1515 of 2021

K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY ORDER MADE IN

W.P.(MD)Nos.19508 of 2020 and 1515 of 2021

30.08.2024