

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.24180 of 2015
and
MP.Nos.1 and 2 of 2015

P.R.Rajenthiran

... Petitioner

vs.

- 1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai.
- 2.The District Registrar (Administration)
Namakkal District,
84/B5, SS Complex,
Near Ramesh Theatre,
Trichy Main Road,
Namakkal 637 001.
- 3.Tiruchengode Lorry Owners' Association
rep. by its Secretary,
Door No.37-D, Sankagiri Main Road,
Tiruchengode, Namakkal District.
- 4.N.P.Velu
President,
Tiruchengode Lorry Owners' Association
Door No.37-D, Sankagiri Main Road,
Tiruchengode, Namakkal District.
- 5.P.Chandran
Secretary,
Tiruchengode Lorry Owners' Association,
rep. by its Secretary,
Door No.37-D, Sankagiri Main Road,
Tiruchengode, Namakkal District.
- 6.K.S.Subramaniam
Treasurer,
Tiruchengode Lorry Owners' Association
rep. by its Secretary,
Door No.37-D, Sankagiri Main Road,
Tiruchengode, Namakkal District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 and 2 to initiate action in accordance with law to remove the third respondent society from the roll of registration, by declaring the same as defunct society based on the information furnished by the second respondent in Na.Ka.No.2757/R/2015 dated 12.06.2015 and to restrain the conduct of the third respondent's General Body Meeting scheduled to be held on 09.08.2015 or on any other day and to declare the decision of suspending the petitioner from the membership and post of Assistant Secretary of the third respondent society, said to have been taken on 9.5.2015 by its Executive Council, as informed in the letter dated 20.07.2015 received by the petitioner on 27.07.2015 sent by the respondents 4 and 5 as illegal, null and void.

For Petitioner : Mr.R.Neelakandan
For R1 & R2 : Mr.P.Sanjay Gandhi, AGP
For R3 to R6 : Mr.N.Manokaran

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing respondents 1 and 2 to initiate action in accordance with law to remove the third respondent society from the roll of registration, by declaring the same as defunct society, based on the information furnished by the second respondent in Na.Ka.No.2757/R/2015 dated 12.06.2015 and to restrain the conduct of the third respondent's General Body Meeting scheduled to be held on 09.08.2015 or on any other day and to declare the decision of suspending the petitioner from the membership and the post of Assistant Secretary of the third respondent society, said to have been taken on 9.5.2015 by its Executive Council, as informed in the letter dated 20.07.2015 received by the petitioner on 27.07.2015 sent by the respondents 4 and 5 as illegal, null and void.

2. The case of the petitioner in brief is as follows:

2.1 The petitioner is a member of the third respondent viz., Tiruchengode Lorry Owners' Association (hereinafter shortly referred to as 'Society') with Membership No.2509, for which, an identity card has also been issued to him. The third respondent Society was started in 1962 and was registered with the second respondent bearing Registration No.3/1963. The third respondent Society is having a separate by-law for the administration and regulation of its activities and is involved in the business of running a petrol and diesel retain bunks, automobiles - spare parts vending section and oil vending

section and its business accounts are dealt with by respondents 4 to 6 in their official capacity. In 2013, the petitioner was elected as the Joint Secretary of the third respondent Society and respondents 4 to 6 were elected as the President, Secretary and Treasurer of the Society respectively.

2.2 During the check done in November 2014, it was found that one Ramesh, who was working as cashier, in collusion with other office-bearers, had misappropriated the funds belonging to the Society. When the same was brought to the notice of the fourth respondent, a misunderstanding arose between the petitioner and respondents 4 to 6, resulted in keeping the petitioner away from the day today affairs of the Society.

2.3 Thereafter, on suspicion about the lawful function of the third respondent Society, the petitioner enquired with the office of the second respondent, who in turn, informed that there were no documents submitted to them regarding renewal of the registration of the third respondent Society from 2006-07 onwards. When he informed the same to the fourth respondent, he was replied that there was no such thing and everything has been complied with. In view of the same, respondents 4 to 6 colluded together and hurriedly conducted Executive Committee Meeting on 09.04.2015 instead of regular Executive Committee Meeting to be conducted on every 3rd Saturday of the month and suspended the petitioner from the membership and from the post for three years and the same was informed to him. The petitioner submitted a letter dated 1.6.2015 to respondents 4 to 6 requesting them to furnish a copy of the said decision to him, to which, he received a reply dated 20.07.2015 on 27.07.2015, wherein, the respondents 4 and 5 made several false allegations against him.

2.4 In the mean time, the petitioner made an application under the Right to Information Act on 28.05.2015, to the second respondent requesting information relating to mandatory compliance for renewal of the third respondent Society, for which, the second respondent by a communication in Na.Ka.No.2757/R/2015 dated 12.06.2015, has informed that the society's annual report has not been submitted after 2006-2007 and hence, the registration has not been renewed. It was further stated therein that since the annual report was not submitted for more than 3 years, action would be taken for removal of the society as per section 44(3)(b) of the Tamil Nadu Societies Registration Act. On the basis of the same, the petitioner made a separate representation dated 04.07.2015 to the first respondent and also to the Deputy Inspector General of Registration, Salem to take appropriate action against the third respondent. Though the first respondent did not take any action so far, the Deputy Inspector General of Registration has forwarded the petitioner's representation to the second

respondent on 9.7.2015 for further action. Further, the petitioner came to know from the communication of the second respondent dated 17.07.2015 that no report as to his suspension was filed by the Society. Therefore, the petitioner has filed the present petition for the above stated relief.

3. A counter affidavit has been filed by respondents 3 to 6 interalia stating as follows:

3.1 After taking charge on 4.8.2013, the writ petitioner was in the habit of misusing his position as the Joint Secretary of the Society under the guise of compelling the employees to give all the products on credit basis, whereupon he had refused to settle the dues. Further, in a drunken mood, he has gone to the extent of shouting the other office bearers in front of others and also behaved in an unruly manner with the employees. Therefore, the office bearers have unanimously taken a decision in a Executive Committee Meeting by way of a resolution dated 09.05.2015 to suspend the petitioner from the post of Joint Secretary as well as from the basis membership for a period of three years and the same was duly intimated to the petitioner.

3.2 Since the order of suspension passed against the petitioner has not been challenged, the same attained finality.

3.3 The averment made in the writ petition that the third respondent should be declared as a defunct one for not submitting the form for renewal, is totally misconceived. According to respondents 3 to 6, all the office bearers, who were and are in the administration of the Society, have duly submitted the relevant records for renewal from 2006 to 2015. As per the provisions of the Act, the third respondent has also duly filed the forms for renewal, which were duly accepted by the second respondent, however, the second respondent failed to make necessary entries in the register. Thereafter, the second respondent corrected the said mistake, at the request of the third respondent.

3.4 All other allegations and averments made in the writ petition are only to wreak personal vendetta under the guise of indirectly challenging the decision taken by the Executive Committee to suspend the petitioner for a period of three years from the basic membership. By stating so, respondents 3 to 6 prayed for dismissal of the writ petition.

4. Learned counsel for the petitioner submitted that as per the communication of the second respondent dated 12.06.2015, the third respondent society has not filed its annual report from the year 2006-2007 onwards and also has not filed the required documents regarding renewal of its registration.

Therefore, respondents 1 and 2 are bound to take necessary action to remove the said Society from its Registration Roll, by declaring the third respondent society as a defunct society, by invoking the power under section 44(3)(b) of the Registration Act.

5. Learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that the third respondent society has not filed its annual report from 2006-07 onwards and has also not renewed its registration. As such, the third respondent Society is not functioning, as per Section 16 of the Tamil Nadu Societies Registration Act.

6. Learned counsel for the respondents 3 to 6 reiterated the averments made in the counter affidavit filed on behalf of those respondents.

7. Heard the rival submissions made by all the parties and perused the documents produced before this Court.

8. In this writ petition, the petitioner made several allegations as against respondents 3 to 6 and the same were denied by the respondents 3 to 6. It is the submission of the learned Additional Government Pleader appearing for respondents 1 and 2 that the third respondent Society has not filed its annual report from 2006-07 onwards and has also not made application for renewal of its registration, as per law. In my considered view, such disputed issues cannot be gone into by this court by conducting a roving enquiry upon the materials produced on either side, under Article 226 of the Constitution of India. Therefore, the relief sought for by the petitioner cannot be granted.

9. However, this Court directs the respondents 1 and 2 to consider the representation of the petitioner dated 04.07.2015 along with the representation of the third respondent dated 29.08.2015, by affording an opportunity of personal hearing to the petitioner as well as to respondents 3 to 6 and other necessary parties, if any and pass appropriate orders. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the respondents 1 and 2 to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai.
- 2.The District Registrar (Administration)
Namakkal District,
84/B5, SS Complex,
Near Ramesh Theatre,
Trichy Main Road,
Namakkal 637 001.

+1cc to Mr.N. Manokaran, Advocate, S.R.No.17699
+1cc to M/s.R. Neelakandan, Advocate, S.R.No.17591
+1cc to the Government Pleader, S.R.No.17722

AK(CO)
EU(23/03/2016)

सत्यमेव जयते

W.P.No.24180 of 2015

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