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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
ORDERS RESERVED ON : 07.06.2016
ORDERS DELIVERED ON : 14.06.2016
CORAM

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. (MD) No.4438 of 2016

and

W.M.P. (MD) Nos.3984, 3985, 4497 and 5260 of 2016

K.A.Mohideen Meera

.. Petitioner

vs.

1.The District Educational Officer,
Paramakudi, Ramanathapuram District.

2.The District Elementary Educational Officer,
Ramanathapuram, Ramanathapuram District.

3.The Abiramam Education Trust,
Rep. by its Secretary, Abiramam,
Ramanathapuram District.

4.The District Registrar (Administration)
2nd Beach Lane, Chennai 600 001.

5.S.A.Mohideen Ariff

.. respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of CERTIORARI calling for the records relating to the impugned order passed by the 1st respondent/ District Educational Officer, in Na.ka.No.483/Aa1/2016, dated 04.02.2016, registering the 5th respondent, as the Correspondent of the Muslim Higher Secondary School, Abiramam and quash the same.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
for Mr.P.Gunasekaran

For R1, R2 and R4 : Mr.V.Muruganandam
Additional Government Pleader

For R3 and R5 : Mr.Veerakathiravan
Senior Counsel
for Mr.C.Jeganathan

ORDER

The Petitioner has focused the instant writ petition praying for passing of an order by this Court in calling for the records pertaining to the impugned order, passed by the First Respondent/District Educational Officer, in Na.ka.No.483/Aa1/2016, dated 04.02.2016, registering the 5th respondent, as the Correspondent of the Muslim Higher Secondary School, Abiramam.



2. The Summations of Writ Facts

2.1. According to the Petitioner, he is the Correspondent of three schools viz., (i) Muslim Higher Secondary School, Abiramam; (ii) Abiramam Elementary School, Abiramam and (iii) Natham Elementary School, Natham. All these three schools are owned and administered by a Trust known as 'Abiramam Educational Trust' (herein after referred to as 'Trust'). The Trust was registered as a Society (Register No.33 of 1957) in the office of District Registrar, Chennai under the Societies Registration Act.

2.2. The Trust was established on 22.05.1957 with an object of promoting education in and around the Village of Abiramam in Ramanathapuram. The three schools established by the Trust are Religious Minority Educational Institutions in terms of Article 30(1) of the Constitution of India.

2.3. The Trust is governed by its own Rules and Regulations and its affairs are managed by a Committee known as 'Board of Management' consisting of 15 Executive Trustees/Members, who are elected from among the Founder Trustee Members and the Trustee Member by the General Body and its General Meeting convened once in three years. The composition of the General Body is of four classes of members i.e. (i) Founder Trustee Members; (ii) Founder Ordinary Members; (iii) Trustee Members and (iv) Ordinary Members.

2.4. The 'Board of Management' is the competent authority to nominate the Correspondent for the Schools. Accordingly, the Petitioner was the Correspondent nominated for all the three schools in the year 2012. An election for the present triennium viz., 2014-2017 took place on 14.03.2014, in which, the Petitioner was elected as one of the Members of the 'Board of Management'. In fact, the 'Board of Management' has again nominated the Petitioner as the Correspondent for all the three schools. The Respondent Nos.1 and 2 registered the Petitioner as the Correspondent, as per proceedings, dated 02.04.2014 and 04.04.2014 respectively and ever since then, he is administering the three schools efficiently as the Correspondent and to the satisfaction of all concerned. As per Bye-Laws, the President shall guide and preside over the meeting and the Secretary shall be the Executive Officer. The Correspondent shall be in control of the Schools and he is entitled to appoint, suspend and dismiss the employee, as per the existing Laws.

2.5. The Fifth respondent was elected as the Secretary of the Trust in the year 2012 and he has been acting in a manner detrimental to the interest of the Trust and Schools. He demanded the support of the Petitioner many times for his unlawful and unauthorised act and since the Petitioner has not yielded to his pressure, he involved in attempts disturbing his functioning as the Correspondent of the Schools.

2.6. Furthermore, the Fifth respondent started tampering with nominal role of members by removing the names of some and entering the names of others, who are amenable to his misdeeds. He went to the extent of inducting few of his relatives as 'Life Members' without there being any Provisions for it, under the Bye-Laws. Also, he created records as though, a General Body Meeting was held on 26.01.2016 at Chennai and that he was elected as the Secretary. The Petitioner had not received



any notice nor any information regarding the meeting of 26.01.2016 and that real members were not given any such notice. As a Correspondent of the Schools, he brought this to the notice of the District Registrar, North Madras, Chennai, through his representation, dated 29.01.2016.

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2.7.The Resolution, dated 26.01.2016 was concocted, as if the Petitioner was removed from the position as the Correspondent of the three schools and in his place, the Fifth respondent was nominated as the Correspondent. The First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, unacquainted with the details, registered the change of the Correspondent for one school, viz., Muslim Higher Secondary School, Abiramam, as per the impugned proceedings in Na.ka.No.483/Aa1/2016, dated 04.02.2016.

2.8.In regard to the other two schools viz., (i)Abiramam Elementary School, Abiramam and (ii)Natham Elementary School, Natham, the Second respondent/District Elementary Educational Officer, had not accepted the Fifth respondent and had not registered him, as the Correspondent. The Petitioner is administering the three schools till date and his duration would remain valid till March, 2017, indeed, the respondent Nos.1 and 2 had registered him as the Correspondent of all the three Schools as per proceedings, dated 02.04.2014 and 04.04.2014 respectively. However, the First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, had passed the impugned order, dated 04.02.2016, registering the Fifth respondent, as the Correspondent of one of the Schools viz., Muslim Higher Secondary School, Abiramam. The First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, had not issued any notice or gave any opportunity of hearing before effecting the change of Correspondent.

2.9.The First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, instead of asking the Fifth respondent to produce the Form No.VII, registered by the Fourth Respondent/District Registrar (Administration), Chennai, as required under the Tamil Nadu Societies Registration Rules, surprisingly registered the Fifth respondent as the Correspondent with a condition to produce the registered Form VII, within a period of three months. Since the Fifth respondent on the strength of impugned registration by the First Respondent/ District Educational Officer, Paramakudi, Ramanathapuram District, endeavouring to obstruct the administration of the school etc., the Petitioner has filed the present writ petition questioning the validity of the impugned order passed by the First Respondent/ District Educational Officer, Paramakudi, Ramanathapuram District, dated 04.02.2016, registering the Fifth respondent, as the Correspondent of the Muslim Higher Secondary School, Abiramam.

3. Gist of Counter of the First Respondent:-

3.1.As per the Bye-Laws of the 'Abiramam Educational Trust', election should be conducted once in three years and that the previous election took place on 12.12.2012 and the period came to an end on 12.12.2015. In the election, that took place on 12.12.2012, one A.M.Mohammed Ithris was selected as Correspondent on 21.06.2013. But later he resigned from the said post on 24.12.2013. After some time, the



Petitioner was appointed as Correspondent on 14.03.2014, as per proceedings of the First Respondent, dated 02.04.2014.

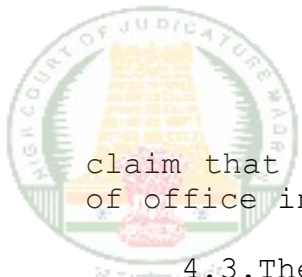
3.2. The Petitioner's appointment as Correspondent would be only upto 12.12.2015. As per the Bye-Laws of the Trust, election should be conducted for every three years and further, the Executive Committee would be convened every three years and they would be in the said post for three years or till the conclusion of next election. Inasmuch as the Petitioner's term as Correspondent had expired on 12.12.2015, he has no *locus standi* to discharge the function of a Correspondent. In connection with the conduct of fresh Election at Chennai on 26.01.2016, the Fifth Respondent filed Crl.O.P.(MD)No.1088 of 2016 before the Principal Bench and sought for police protection for the Election on 26.01.2016 and it was ordered.

3.3. In the Election that took place on 26.01.2016, the petitioner's name had not found place in the elected members. The Fifth Respondent produced documentary proof regarding election for the new Membership held on 26.01.2016. The First Respondent through the impugned proceedings, dated 04.02.2016, had accepted the change of Correspondentship in favour of the Fifth respondent with effect from 26.01.2016. At the time of grant of approval, for the change of Correspondentship in favour of the Fifth respondent by way of impugned proceedings, dated 04.02.2016, it was made clear, as one of the conditions, that the Fifth respondent should produce Form No.VII from the District Registrar, Chennai, within three months, otherwise, the proceedings would get automatically terminated. Later, the First Respondent had received the Form VII from the Fifth respondent on 09.02.2016.

4. The Contents of the Counter of Third and Fifth Respondents:-

4.1. The writ Petitioner is not at all a Correspondent of any of the schools run by the 3rd respondent/Trust. He was removed from the post of Correspondent on 3.1.2016 by the Management Committee. As such he cannot claim the post as Correspondent. As a matter of fact, the Petitioner has no *locus standi* to file the writ petition pertaining to the internal administration of the Trust and Management of the Educational Institutions run by the Trust.

4.2. As per Bye-Laws, the management committee consists of 15 members duly elected by the General Body every three years and the last election was conducted as per Bye-Law on 12.12.2012 by the General Body at Chennai and the writ Petitioner was elected as the member of the Managing Committee. The tenure of erstwhile office bearers of the third respondent/Trust came to an end on 11.12.2015. Initially, the Board thought it fit to appoint one A.M.Mohamed Idris on 24.12.2013 during middle of tenure of three years. After acceptance of the resignation by the erstwhile Correspondent, the Management Committee has appointed the writ Petitioner as Correspondent of all the three schools run by the Third Respondent and it was duly approved by the District Educational Officer and District Elementary Educational Officer by proceedings dated 2.4.2014 and 4.4.2014. In as much as tenure of office of the Petitioner appointed by the Management Committee expired on 11.12.2015, he cannot



claim that he is continuing as Correspondent after expiry of his tenure of office in erstwhile management committee.

4.3. The Management Committee received several complaint from the public as well as teachers working in the educational institutions that the Petitioner is acting in a derogatory manner and against the interest of the educational institution by pressurizing the teachers to resign from the post or to fill up the vacancies. During the period of tenure of office, the Management Committee convened on 12.12.2015 unanimously resolved to conduct the next general body election on 26.1.2016 and in the same meeting in Resolution No.2 the action of the Petitioner was condemned for not signing the resolution of participating in the deliberations conducted by the Management Committee. Further, the teachers' complaints were considered and by Resolution No.5, the Management Committee of Third Respondent has resolved to remove the writ Petitioner from the post of Correspondent and the election was proceeded by appointment of an Election Officer for conduct of election.

4.4. After removing the Petitioner from the post of Correspondent of the Educational Institutions of the Third Respondent, the Petitioner was duly communicated about the same on 4.1.2016 by the then Secretary by registered post. In fact, the writ Petitioner had received the said communication and therefore, he cannot claim as the Correspondent after his removal by the appointing authority, especially when the tenure of office of the erstwhile appointing authority expired on 11.12.2015 and he was also not allowed to continue beyond 3.1.2016.

4.5. After the removal of the Petitioner as Correspondent, the General Body Meeting was properly convened and a new team of office bearers were duly elected. The new Committee was appointed on 26.1.2016, wherein the Third Respondent (S.J.Naina Mohammed) was appointed as the Secretary of the Educational Agency. After appointment as Secretary of Educational Agency, it was found that the Petitioner was misusing his position as Correspondent etc., and because of his conduct, he was removed from the post of Correspondent as well as Membership of the Third Respondent. Therefore, the Petitioner is not entitled to claim any right in the administration of the society or the post of Correspondent.

4.6. After removing the Petitioner, the management committee of the Trust thought it fit to appoint the Fifth Respondent as Correspondent of all the three schools. In fact, salary payable to the teachers in all the three schools were not paid and after the Fifth Respondent was duly appointed and approved by the respondents 1 and 2, by proceedings, dated 4.2.2016 and 5.2.2016, the 5th respondent prepared and submitted the salary bills for January & February 2016 and salary was drawn and paid to the teachers.

4.7. The plea of the Petitioner that as if he is continuing as Correspondent with regard to the Elementary School is also not correct. The 2nd respondent has already approved the 5th respondent as Correspondent for the Elementary Schools both in Abiramam and Natham. After removal of the Petitioner from the post of Correspondent from 03.01.2016, the Petitioner is not performing any statutory duty. The



Petitioner's brother Sickandar Dulkarnine filed W.P.(MD)No.386 of 2016 before this Court and there is no interim order in it. The Petitioner was removed from the post of Correspondent as well as Membership from the Third Respondent management. The Petitioner was earlier elected in the year 2012 in the same manner of election, which was conducted on 26.01.2016. Since he was removed from the membership itself, he cannot dispute the election that held on 26.01.2016.

5. The Reply Contents of Petitioner:-

5.1.No such meeting ever took place on 26.01.2016 and in fact, there was no such election. The Fifth respondent created the records though a General Body meeting took place and elected new Executive Members. The Petitioner's appointment was approved by the First Respondent/ District Educational Officer, Paramakudi, Ramanathapuram District, only after acceptance of proposal and documents. As such, the First Respondent cannot say that there was no proof filed by the Petitioner and added further, he cannot say that his tenure is upto 12.12.2015. The Fifth respondent had not submitted any copy of Registered Form VII of the 4th respondent/District Registrar (Aministration), Abiramam. There is no valid proof to show that Form VII was produced before the Fourth Respondent on 09.12.2016. There is no suspension against the Petitioner till date. When the Petitioner came to know about the election to be held on 26.01.2016, immediately on 13.01.2016, one K.A.Sikandar Dulkarkhan, submitted an objection letter to the Fourth Respondent, not to conduct election on 26.01.2016, which is against the Bye-Laws of the Trust. Later, on 16.01.2016, another letter was sent to the President of the Third Respondent/Trust to conduct extraordinary General Body meeting with the support of 28 members of the Trust under Section 28(2) of the Tamil Nadu Societies Registration Act, 1975. The extraordinary General Body Meeting was held on 26.01.2016 with support of the 90 members of the Trust at United Mahal, Abiramam, as per Rule VI(6) of the Trust Regulations.

6. The Petitioner's Contentions:-

6.1.The Learned Senior Counsel for the Petitioner submits that the Petitioner was nominated for all the three schools during the year 2012 and that the election for the present triennium viz., 2014-2017 took place on 14.03.2014 and further, that the Petitioner was elected as one of the members of the 'Board of Management'. The Learned Senior Counsel for the Petitioner brings it to the notice of this Court that the 'Board of Management' again nominated the Petitioner as the Correspondent for all the three schools and that the First Respondent/ District Educational Officer, Paramakudi, Ramanathapuram District and the Second respondent/District Elementary Educational Officer, Ramanathapuram, Ramanathapuram District, registered the Petitioner, as the Correspondent as per proceedings, dated 02.04.2014 and 04.04.2014 respectively.

6.2.The Learned Senior Counsel for the Petitioner urges before this Court that the Petitioner's duration would remain valid upto March, 2017 and that the First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, suddenly registered the Fifth respondent as Correspondent of Muslim Higher Secondary School, Abiramam, by means of impugned proceedings, dated 04.02.201. In fact, the stand of the petitioner is that the impugned proceedings of the First Respondent,



dated 04.02.2016, is an illegal one because of the reason that the First Respondent had not issued any notice to the Petitioner and also not provided any opportunity of hearing before registering the change of correspondent.

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6.3. The Learned Senior Counsel for the Petitioner refers to Rule 13(2) of the Tamil Nadu Recognised Schools (Regulation) Rules, 1974, which runs as follows:-

"The term of office of the Secretary shall ordinarily be three years. However, he shall be eligible for renomination as Secretary for subsequent terms. If the educational agency intends to change the Secretary within the period of three years, it shall do so only with the prior permission of the District Educational Officer."

and projects an argument that in the instant case, for registering the change of Correspondent (from that of Petitioner to fifth respondent), the prior permission of the First Respondent was not obtained by the Educational Agency and therefore, the impugned order, dated 04.02.2016 of the First Respondent, is illegal.

6.4. The Learned Senior Counsel for the Petitioner contends that as per Rule VI(4) of the Memorandum of Association of the Third Respondent/Abiramam Educational Trust, Abiramam, "a meeting of General Body Members of the Trust shall be convened, once in 3 (Three) years at Abiramam" and in the present case, the General Body Meeting was held on 26.01.2016 at Madras, contrary to Rule VI(4) of the Memorandum of the Third Respondent/Trust.

6.5. The Learned Senior Counsel for the Petitioner submits that before the Fourth Respondent/District Registrar (Administration), Chennai, Form VII was not filed, to show that the General Body Meeting took place on 26.01.2016 at Chennai. The Learned Senior Counsel for the Petitioner contends that the Public Information Officer-cum-District Educational Officer, Paramakudi (First Respondent) on 06.06.2016 had given a reply to the petition of the Petitioner, dated 25.05.2016 enclosing copies of office Correspondent records in respect of the Muslim Higher Secondary School, Abiramam, wherein it was mentioned that the date of appointment of the Petitioner was on 14.03.2014 and the date of expiry was mentioned as '13.03.2017'.

6.6. The Learned Senior Counsel for the Petitioner emphatically contends that the First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, instead of asking the Fifth respondent to produce Form VII registered by the Fourth Respondent/District Registrar (Administration), Chennai, registered the Fifth respondent as Correspondent of Muslim Higher Secondary School, with a condition to produce the registered Form VII within a period of three months, which is not legally tenable.

6.7. Lastly, it is the submission of the the Learned Senior Counsel for the Petitioner that the impugned order of the First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, dated 04.02.2016, is highly arbitrary, capricious and passed without an application of mind.



7. The Submissions of the Respondents 1, 2 and 4:-

7.1. It is the contention of the Learned Additional Government Pleader for R1, R2 and R4 that as per Bye-Laws of the Third Respondent/Trust, election should be conducted once in three years and that previous election was conducted on 12.12.2012 and the period came First Respondent to an end on 12.12.2015. Further more, it is represented that in the election, that took place on 12.12.2015, one A.N. Mohammed Ithris was initially selected as Correspondent, but subsequently, he resigned the post on 24.12.2013 and after some time, the Petitioner was appointed as Correspondent on 14.03.2014, as per proceedings of the First Respondent, dated 02.04.2014.

7.2. The Learned Additional Government Pleader further submits that the period of appointment of the Petitioner as Correspondent, was upto 12.12.2015 and since the previous election period, where the Petitioner was appointed as Correspondent, expired on 12.12.2015, the Petitioner has no *locus standi* to perform the function of the Correspondent of the School, after the aforesaid expiry period.

8. The contentions of the Respondents 3 and 5:-

8.1. The Learned Senior Counsel for the Respondent Nos.3 and 5 submits that the tenure of erstwhile office bearers of the third Respondent/Trust expired on 11.12.2015 and the Trust Board initially appointed one A.M. Mohamed Idris as Correspondent, on 24.12.2013 during middle of tenure of three years. After acceptance of the resignation by the erstwhile Correspondent, the Management Committee has appointed the writ Petitioner as Correspondent of all the three schools run by the Third Respondent, which was duly approved by the Respondents 1 and 2. Moreover, it is projected on behalf on behalf of the third and Fifth respondents that the Petitioner's tenure came to an end on 11.12.2015 and that he cannot stake a claim that he is continuing as Correspondent.

8.2. The Learned Senior Counsel for the Respondent Nos.3 and 5 contends that in the General Body Election that took place on 26.01.2016, the Management Committee of the Third Respondent by means of Resolution No.5 had resolved to remove the writ Petitioner from the post of Correspondent and after removing the writ Petitioner from the post of Correspondent of the Educational Institutions of the Third Respondent, the same was communicated on 04.01.2016 by the Secretary, to the writ Petitioner and the writ Petitioner received the said communication. In short, the writ Petitioner was not allowed to continue beyond 03.01.2016.

8.3. It is the plea of the Third and Fifth Respondents that the management committee of the Third Respondent/Trust thought it fit to appoint the Fifth respondent as Correspondent of all the three schools and in fact, the Fifth respondent's appointment was duly approved by the respondents 1 and 2 by means of proceedings, dated 04.02.2016 and 05.02.2016 respectively.

8.4. The Learned Senior Counsel for the Respondent Nos.3 and 5 takes a plea that the Petitioner was earlier elected in the same manner of election, which was conducted on 26.01.2016 and since he was removed



from the membership itself and at this stage, he cannot dispute the election, which took place on 26.01.2016.

9. The Discussions and Findings:-

9.1. At the outset, it is to be pointed out that the Petitioner has filed the present writ petition stating that he is the Correspondent of the three schools viz., (i) Muslim Higher Secondary School, Abiramam; (ii) Abiramam Elementary School, Abiramam and (iii) Natham Elementary School, Natham. It is also to be mentioned that as per Rule VI (4) of the Memorandum of Association of the Third Respondent/Trust, a meeting of the General Body of the members of the Trust shall be convened once in 3 (Three) years at Abiramam. However, in the present case, the Managing Committee convened on 12.12.2015, had unanimously resolved to conduct the next General Body Election on 26.01.2016 and in the said meeting, by Resolution No.5, the Managing Committee of the Third Respondent had resolved to remove the writ Petitioner from the post of Correspondent of the Educational Institutions of the Third Respondent, which was duly communicated on 04.01.2016 by the then Secretary by means of Registered Post. In the place of the Petitioner, the Fifth respondent was nominated as Correspondent of the three schools. However, the First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, had registered the change of Correspondent in respect of the Muslim Higher Secondary School, Abiramam, as per proceedings dated 04.02.2016, in respect of the other two schools viz., Abiramam Elementary School, Abiramam and Natham Elementary School, Natham, the Second Respondent/District Elementary Educational Officer, Ramanathapuram, Ramanathapuram District, had not accepted the Fifth respondent and not registered him, as Correspondent.

9.2. At this juncture, this Court worth recalls and recollects the Full Bench decision of this Court in **C.M.S. EVANGELICAL SUVI DAVI MEMORIAL HIGHER SECONDARY SCHOOL COMMITTEE KARISAL v. THE DISTRICT REGISTRAR, CHERANMAHADEVI** reported in **(2005) 2 M.L.J. 335**, wherein at special page Nos. 341 and 342, at paragraph Nos. 18 to 20, it is observed as under:-

"18. The power of the Registrar to enquire into the affairs of the society is only to hold a summary inquiry for his own satisfaction. The said power cannot be construed as the power of appeal. Under Sec. 36, the Registrar has not been empowered to adjudicate upon the conflicting claims to represent the society based upon question of fact. A plain reading of Sec. 36 shows that the Registrar could look into only the provisions of the Act and the Rules and prima facie materials to arrive at a conclusion either to believe or not to believe Form No. VII in order to effect change in the register. The power of the Registrar to call for information and explanation under Sec. 34 does not contemplate any power to examine witnesses or to allow opportunity for cross examination of witnesses. The power in our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register. However, the exercise of power must not be



arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the writ jurisdiction.

19. In this context it could also be kept in mind the intention of the Legislature not to confer a power of suppression of the Committee on the Registrar as by insertion of Tamil Nadu Act 16 of 1994, such power is vested only in the Government and even when the Registrar is satisfied after enquiry under Section 36 that the society which has contravened any of the provisions of the Act or the Rules made thereunder or the society is insolvent or must necessarily become so or that the business of any such registered society is conducted fraudulently or not in accordance with the bye-laws or the objects specified in the memorandum filed with the Registrar, he may only cancel the registration.

20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of Sub-Sec. (9) of Sec. 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Sec. 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence the power of the Registrar to issue such direction under Sub-sec. (9) of Sec. 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Sec. 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Sec. 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Sec. 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Sec. 14, the Registrar could only resort to, to the power under Sec. 37 to cancel the registration. Hence, the power under Sub-sec. (9) of Sec. 36 cannot be stretched to a power on the Registrar to direct the registered society to hold fresh election. A direction to hold fresh election would amount to indirectly setting aside the earlier election and such power is not conferred on the Registrar under any of the provisions of the Act. So long as the election is not declared invalid in the manner known to law, no direction for fresh election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfied himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to particulars and thereby does not accept Form



VII, he has to issue a direction relegating the parties to approach the Civil Court for appropriate orders and thereafter shall act as per the orders of the civil Court."

9.3. It is to be noted that the validity of Election conducted on 26.01.2016 at Chennai has not been assailed by the petitioner before the competent/appropriate Civil Court by means of filing of a Suit. It cannot be gainsaid that only in a comprehensive Civil Suit, an option is very much available to the concerned parties to let in oral and documentary evidence and to ventilate their grievances in accordance with Law.

9.4. In the instant case, the Fifth respondent produced documentary evidence regarding the election for the new membership that took place on 26.01.2016 and the First Respondent/District Educational Officer, Paramakudi, Ramanathapuram District, by means of proceedings dated 04.02.2016, had accepted the change of Correspondentship in favour of the Fifth respondent with effect from 26.01.2016. While accepting the change of Correspondentship, by means of proceedings, dated 04.02.2016, the First Respondent made it clear that the Fifth respondent should produce Form No.VII from the Fourth Respondent/District Registrar (Administration), Chennai, within three months and otherwise proceedings would get automatically terminated. In fact, the Fifth respondent had given the Form No.VII before the First Respondent on 09.02.2016.

9.5. Added further, it is to be relevantly pointed out that in the election held on 26.01.2016, nearly 15 persons were selected as stated in paragraph No.5 of the counter filed by the First Respondent. Also, that the Petitioner is ceased to the member of the Executive Committee and also, he was not elected in the election that took place on 26.01.2016 and as such, he cannot stake his claim presently to the post of Correspondentship, in the considered opinion of this Court. Also, in the presence of electoral officer, the Fifth respondent was appointed as Correspondent in the election held on 26.01.2016. As such, the impugned proceedings of the First Respondent, dated 04.02.2016 cannot be found fault with. That apart, when the tenure of the Petitioner appointed by the management expired on 11.12.2015; and when he was removed from the post of Correspondent on 03.01.2016 by the Management Committee and that he had participated in the election process and when the election was over as early as on 26.01.2016 and when the Petitioner is no longer the Correspondent of the Muslim Higher Secondary School, then the filing of present Writ Petition is *per se* not maintainable in the Eye of Law, as opined by this Court.

9.6. Besides the above, it is to be borne in mind that the Petitioner has not furnished any valid documentary material to prove that he was elected as the Correspondent in the election held on 14.03.2014 to substantiate his claim in this respect. Looking at from any angle and on balance, the impugned order, dated 04.02.2016, of the First Respondent, in the considered opinion of this Court, does not suffer from any material irregularity or patent illegality in the eye of Law. Viewed in that perspective, the writ petition sans merits.

**10. Result:-**

In fine, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/

Assistant Registrar(CS-I)

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Sub Assistant Registrar

To:

- 1.The District Educational Officer,
Paramakudi, Ramanathapuram District.
- 2.The District Elementary Educational Officer,
Ramanathapuram, Ramanathapuram District.
- 3.The Secretary,
Abiramam Education Trust,
Abiramam, Ramanathapuram District.
- 4.The District Registrar (Administration)
2nd Beach Lane, Chennai 600 001.

+1cc to M/S.P.Gunasekaran, Advocate in SR.No.30463

+1cc to Special Government Pleader in SR.No.30507

+1cc to M/S.C.Jeganathan, Advocate in SR.No.30284

PRE-DELIVERY ORDER MADE IN

W.P.(MD) No.4438 of 2016

14.06.2016

rj2

PA/GSV-PM/SAR III/15.06.2016/12P/8C (IT)