



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

WEB COPY

W.P. (MD) .No.4903 of 2011

Tirunelveli C.M.S.Evangelical
Church Society, rep. by its
Secretary, R.Paul George

.. Petitioner

.Vs.

1. District Registrar,
Cheranmahadevi,
Tirunelveli District.

2. P.Jeyasingh Malraj
Secretary,
Tirunelveli CMS-Evangelical Church
Society

... Respondents

(R2 is impleaded vide Court order dated 04.10.2016
in MP(MD)No.1 of 2011)

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondent to verify and register the Annual Returns submitted by the Petitioner Society from the year 2004 till now by considering the representation made by the petitioner society dated 10.09.2010 as instructed by the Inspector General of Registration in his Proceedings O.Mu.No.49405/S3/2010-2 dated 29.10.2010.

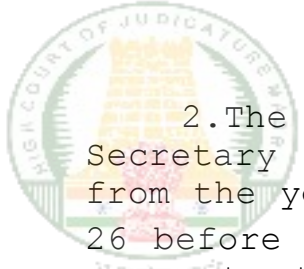
For Petitioner : Mr.V.Panneerselvam

For Respondents : Mr.Aayiram K.Selvakumar (for R1)
Government Advocate

Mr.G.Prabhu Rajadurai (for R2)

O R D E R

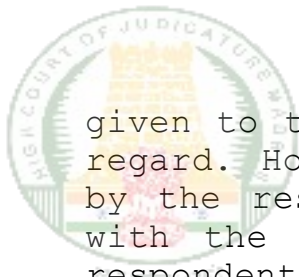
This writ petition is filed to issue a Writ of Mandamus, directing the respondent to verify and register the Annual returns submitted by the petitioner society from the year 2004 till now by considering the representation made by the petitioner society dated 10.09.2010 as instructed by the Inspector General of Registration in his proceedings O.Mu.No.49405/S3/2010-2 dated 29.10.2010.



2.The case of the petitioner's society represented by its Secretary namely R.Paul George is that their society is running from the year 1925 and the same was registered vide Reg.No.2/1925-26 before the 1st respondent herein. Subsequently on enactment of new act, the petitioner society was re-registered with Reg. No. 4/1984. The petitioner society runs about 27 schools in Tirunelveli and Tuticorin District. Being so, some 3rd persons without making application to the General Body which is competent to admit new members, but attempted to become members of the petitioner society. For the subsequent period i.e. 2000-2002 election was conducted by the original members and Form VII was submitted and the same came to be approved. The said approval of Form VII came to be challenged by the rival group in a writ petition. Wherein, this Court by appointing an Advocate Commissioner in this regard found that 95 members of the society are the actual members as per law. Subsequently an adhoc committee was constituted by the petitioner society further on scrutiny found that totally there were 146 members. Challenging the said member list published by the petitioner society a writ petition came to be filed, wherein this Court directed the parties to work out their remedy before the civil forum. There upon the rival party filed a civil suit in O.S.No.138 of 2004 in this regard and the same came to be dismissed. The appeal suit in A.S.No.55 of 2005 filed as against the dismissal of the above Original Suit also came to be dismissed. Thus now the petitioner society is being run by the original members. However because of the pendency of the above disputes, the Returns of the petitioner's society could not be submitted in time from the year 1995-1996 onwards.

3.Thereafter, the dismissal of appeal suit, the returns of petitioner society was filed before the respondent. The said return was forwarded to the Inspector General of Registration, who in turn forwarded the same to the Government. The Government vide G.O.Rt.No.958, Commercial Taxes and Registration Department dated 18.08.2009, by exercising its power under sub-section (1) of Section 54 Tamil Nadu Societies Registration Act, 1975 exempted the petitioner's society from Rule 22 of the Tamil Nadu Societies Registration Rules, 1978 for the years 1995-96, 1996-97, 2000-01, 2001-02. On issuance of the above said Government order, there is no impediment to receive and register the documents as per section 16(3) read with rule 49 and 50.

4.Wherefore for the subsequent years the annual returns were filed periodically by the petitioner society, however despite of the issuance of the G.O. the respondent has not taken any steps to register the annual returns, whereas the documents were received kept awaited for an order from the Government. Therefore the petitioner society made a representation on 10.09.2010 to the Inspector General of Registration to take appropriate action in
<https://hcservices.ecourts.gov.in/hcservices/>
 vide his letter dated 29.10.2010 that already instruction has been



given to the respondent herein to take appropriate action in this regard. However there is neither any response nor any reply made by the respondent. Therefore the petitioner society has come up with the present writ petition praying for a direction to the respondent to verify and register the annual returns from the year 2004.

5.I heard Mr.V.Panneerselvam, learned counsel appearing for the petitioner and Mr.Aayiram K.Selvakumar, learned Government Advocate appearing for the 1st respondent and Mr.G.Prabhu Rajadurai, learned counsel for the 2nd respondent.

6.The learned counsel for the petitioner submitted that the petitioner society is being run by the original members. However, because of the pendency of the above dispute, the Returns of the petitioner's society could not be submitted in time from the year 1995-1996 onwards.

7.Thereafter, the dismissal of appeal suit, the returns of the petitioner society was duly filed before the respondent. In the meantime, the Government vide G.O.Rt.No.958, Commercial Taxes and Registration Department dated 18.08.2009, by exercising its power under subsection (1) of Section 54 Tamil Nadu Societies Registration Act,1975 exempted the petitioner's society from Rule 22 of the Tamil Nadu Societies Registration Rules, 1978 for the years 1995-96, 1996-97, 2000-01, 2001-02. Therefore there is no impediment to receive and register the documents as per section 16 (3) read with rule 49 and 50.

8.However, the annual return filed periodically by the petitioner society thereafter from the year 2003 is kept awaited for an order from the Government. The said stand of the respondent is erroneous and highly arbitrary. In the light of the issuance of the above said G.O. there is no legal impediment to register the annual return of the petitioner society.

9.Per contra, the learned counsel for the 2nd respondent filed counter and contented that the writ petition is not maintainable either on law or facts. It is noteworthy that the 2nd respondent herein claiming to be the Secretary of the petitioner society has impleaded himself as a party to the writ petition. It was contented that the above said R.Paul Gerge does not have any right to file the writ petition by representing himself as the Secretary of the Society. The said R.Paul Gerge was elected as Secretary in the year 2008 for the tenure of three years. Later due to the arbitrary and unlawful acts of Mr.Paul Gerge, he was removed from Secretaryship by the General Body of petitioner society. Thereupon "Mr.P.Jeyasingh Malraj" representing the 2nd respondent was elected as the Secretary of the petitioner society



and further he was instructed to file a civil suit if he is aggrieved of removal from the Secretariship. While so, the said Paul Geroge has not filed any suit in this regard. Hence the writ petition is not maintainable either on law or facts.

WEB COPY

10. Though very many contentions were raised by either side, this Court finds that there is admittedly no order has been passed by the 1st respondent on the representation of the petitioner society. It is needless to say the 1st respondent herein being a public authority is duty bound to look into the claims made before him and pass appropriate orders on merits.

11. In view of the same, the 1st respondent is directed to look into the issue and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order. It is made clear that such order shall be passed after hearing either party to this writ petition and other interested parties if any.

12. In the result, this writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The District Registrar,
Cheranmahadevi, Tirunelveli District.

+1 cc to Mr.V.Panneerselvam , Advocate in SR.No. 69460
+1 cc to Mr.G.Prabhu Rajadurai , Advocate in SR.No. 69924

vsa/skn
AE/JC/SAR3/29.06.2017/4P/4C

W.P. (MD) .No.4903 of 2011
15.11.2016