

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.3663 of 2017

and

W.M.P.Nos.3720, 3721 and 17018 of 2017

N.Subramani

...Petitioner

Vs.

1. The Inspector General of Registration,
O/o Inspector General of Registration,
Santhome High Road,
Santhome,
Chennai - 28.
2. The District Collector,
Nilgiris.
3. The District Registrar of Societies,
Uthagamandalam,
Nilgiris District.
4. The Young Badagas Association,
rep. By its Secretary,
No.44, Church Hill Road,
Uthagamandalam,
Nilgiris.
5. The President,
The Young Badagas Association,
K.Ramachandran, S/o Late Kari Gowder,
Selvaganapathy Illam,
Illithoraisungam, Eddapalai Post,
Nilgiris District.
6. The Secretary,
The Young Badagas Association,
L.Chandrasekaran,
21/51, Murugan Illam,
Sakkalatty Village, Sogathorai Post,
Nilgiris.

7. The Election Officer,
Mr.R.Ravikumar,
The Young Badagas Association,
Uthagamandalam.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 from registering/ approving the minutes of the meeting dated 28.11.2016 of the 4th respondent association and further direct the respondents 1 to 3 to conduct an enquiry into the constitution and working of the 4th respondent association.

For Petitioner : Mr.I.Abrar Md.Abdullah
For Respondents : Mr.R.Govindasamy,
Special Government Pleader
for R1 to R3
Mr.K.M.Vijayan,
Senior Counsel
for Mr.K.V.Sajeevkumar for R4 to R6

ORDER

The petitioner seeks for a Mandamus to direct the respondents 1 to 3 from registering/ approving the minutes of the meeting dated 28.11.2016 of the 4th respondent association and further to direct the respondents 1 to 3 to conduct an enquiry into the constitution and working of the 4th respondent association.

2. The petitioner is the member of the 4th respondent Association. His grievance is that the resolution passed on 28.11.2016 amending the bye-laws with regard to the tenure of the Office bearers of the association as well as the increase in the number of members of the association affects the interest of the association and therefore, the same should not be given effect to by the respondents 1 to 3. Consequently, the petitioner indirectly seeks for stalling the election of the Association based on his belief that the election would be conducted as per the amended bye-laws.

3. Heard Mr.I.Abrar Md.Abdullah, learned counsel for the petitioner, Mr.R.Govindasamy learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.K.M.Vijayan, learned senior counsel appearing for the respondents 4 to 6 /Association.

4. Learned counsel for the petitioner submitted that the resolution dated 28.11.2016 cannot be given effect to unless the same is registered/approved by the respondents 1 to 3 and therefore, based on such amended bye-laws which are yet to be registered or approved by the respondents 1 to 3, the election cannot be conducted.

5. On the other hand, the learned senior counsel appearing for 4th to 6th respondents/Association after inviting this Court's attention to the proceedings dated 04.05.2017 issued by the District Registrar, namely the 3rd respondent indicating that the said resolution was returned to the association for representing the same with a copy of the same, submitted that the apprehension of the petitioner is not well founded, more particularly, when the election was conducted only as per the unamended bye-law. He further submitted that unless, the respondents 1 to 3 register/approve the amended bye-laws, the same cannot be given effect to. He also fairly submitted that the respondents Association is not having any objection in conducting ensuing election to the association as per the old bye-laws.

6. Mr. I.Abrar Md.Abdullah, learned counsel for the petitioner is not having any objection for conducting the election to the association as per the old bye-laws (unamended bye-laws), if such election is conducted within a short time as stipulated by this Court.

7. It is stated that the last election to the Office bearers was conducted on 19.02.2017 and their tenure is going to expire on 18.02.2018. However, it is seen that by virtue of the interim order passed on 14.02.2017, the results are not declared.

8. Since the learned senior counsel appearing for respondents 4 to 6 asserted that the tenure is for only one year as per the old bye-laws, I do not find any justification in keeping the results pending anymore.

9. Accordingly, this writ petition is disposed of with the following order:

(a) The respondents 1 to 3 shall facilitate the 4th respondent Association to publish the result in pursuant to the election conducted on 19.02.2017 forthwith.

(b) The 4th respondent association shall conduct a fresh election as per the old bye-laws (unamended bye-laws) in the first week of January, 2018. (c) Since this Court, on an earlier occasion, in an order made in W.P.No.28113 of 2015 dated 12.01.2016, appointed Thiru.C.Manickam, District Judge(Retired), residing at No.22, 1st Floor, Raj enclave, Lakshmi Nagar, 6th

Street, Jalladianpet, Medavakkam, Chennai - 600 006 (Mobile No.8098478135) as Election Officer to conduct the election to the 4th respondent Association and since both the parties herein readily agreed to appoint the same person for conducting the election in the first week of January, 2018, Thiru.C.Manickam, District Judge(Retired) is appointed as the Election Officer to conduct the election to the 4th respondent Association in the first week of January,2018. He would accordingly fix the schedule for the election process and conduct the election. A sum of Rs.1,00,000/- (Rupees One lakh only) is fixed as remuneration payable by the 4th respondent to the said Election Officer. Needless to say that the Election Officer will conduct the election strictly in accordance with the existing bye-laws, namely the old bye-laws and declare the results accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi
To

1. The Inspector General of Registration,
O/o Inspector General of Registration,
Santhome High Road,
Santhome, Chennai - 28.
2. The District Collector,
Nilgiris.
3. The District Registrar of Societies,
Uthagamandalam,
Nilgiris District.
4. The Secretary,
The Young Badagas Association,
No.44, Church Hill Road,
Uthagamandalam,
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5. The President,
The Young Badagas Association,
K.Ramachandran, S/o Late Kari Gowder,
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6. The Secretary,
The Young Badagas Association,
L.Chandrasekaran,
21/51, Murugan Illam,
Sakkalatty Village, Sogathorai Post,
Nilgiris.

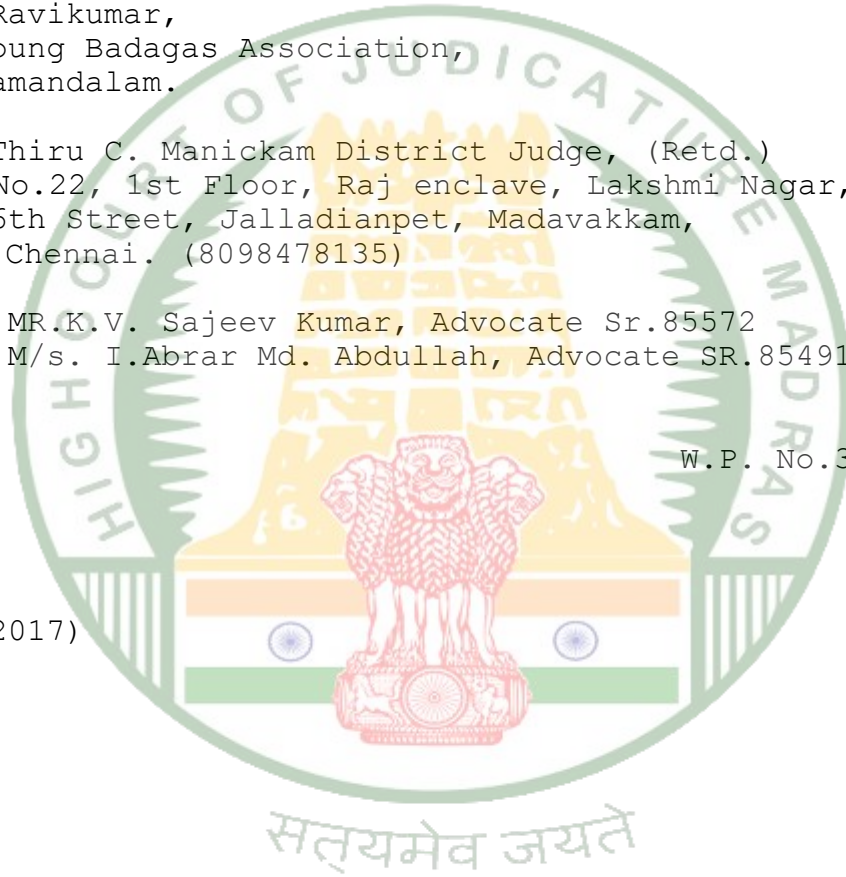
7. The Election Officer,
Mr.R.Ravikumar,
The Young Badagas Association,
Uthagamandalam.

Copy to: Thiru C. Manickam District Judge, (Retd.)
No.22, 1st Floor, Raj enclave, Lakshmi Nagar,
6th Street, Jalladianpet, Madavakkam,
Chennai. (8098478135)

+ 1 cc to MR.K.V. Sajeew Kumar, Advocate Sr.85572
+ 1 cc to M/s. I.Abrar Md. Abdullah, Advocate SR.85491

W.P. No.3663 of 2017

DR
EU(06/12/2017)



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