

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 15.06.2017
CORAM

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No.10492 of 2017
and
WMP (MD) No.8242 of 2017

Kalloorani Kshathriya Nadargal Uravinmurai
Kalloorani,
rep. by its President
N.Rajamanickam

: Petitioner

-vs-

The District Educational Officer,
Aruppukkotai,
Virudhunagar District.

: Respondent

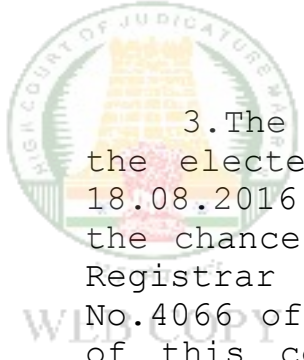
Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondent to approve the school committee proposal submitted by the petitioner on 08.05.2017.

For Petitioner : Mr.V.Panneer Selvam
For Respondent : Mr.D.Muruganandham
Additional Government Pleader.

O R D E R

The prayer sought for in this writ petition is for issuance of a Writ of Mandamus, directing the respondent to approve the school committee proposal submitted by the petitioner on 08.05.2017.

2. According to the petitioner, as per by-law of the petitioner's society, Ambalam is the authorised person to conduct the election to the post of President of the society and thereafter, the President has to elect the office-bearers with the approval of the General Body. Ambalam Thiru Pulamada Nadar issued a notification on 24.06.2016, fixing the election schedule. Totally, four candidates filed their nominations and after withdrawal of two candidates namely Mr.A.Ganesan and G.Madasamy, Mr.N.Rajamanickam the deponent in the writ petition and one Mr.M.Muniyasamy contested for the post of President. The election was held on 23.07.2016 and the Sub Registrar (Chits and Society) had recorded the entire election proceedings in the presence of Tmt.D.Saroja, Sub Registrar, who was appointed as an observer. Eventually, Mr.N.Rajamanickam was declared as elected President and he assumed the post on the same day on 23.07.2016.



3.The petitioner would further state that the President and the elected office-bearers were approved by the General Body on 18.08.2016. Form VII was sent to the District Registrar to approve the chance of office-bearers on 26.08.2016. Since, the District Registrar has not passed any order, a writ petition in W.P(MD) No.4066 of 2017 was filed before this court and as per the order of this court, dated 21.04.2017, Form VII was approved by the respondent, in his proceedings, dated 04.05.2017. As per Rule 12 of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, the educational agency has to constitute a school committee and the educational agency is the authority to nominate one of the representatives as Secretary of the school committee.

4.It is further stated that the Agency sent a proposal to the respondent for approval of the school committee on 21.11.2016, but the respondent returned the proposal on the ground that Form VII has not been submitted. After registering approval of Form VII, again, a proposal for school committee was sent to the respondent on 08.05.2017 and subsequently remainders on 12.05.2017, 22.05.2017 and 31.05.2017. Since, no order was passed, the present writ petition has been filed.

5.Mr.V.Panneer Selvam, learned counsel for the petitioner would submit that the election was conducted as per notification, dated 24.06.2016, but the respondent with a mala fide intention had refused to register Form VII. The deponent Mr.N.Rajamanickam was elected as President and the election was not challenged by the contesters and therefore, it has become final and after electing the office-bearers, Form VII was originally sent to the respondent, but the respondent with a mala fide intention refused to approve Form VII and therefore, WP(MD)No.4066 of 2017 was filed.

6.The learned counsel for the petitioner would further submit that term of the office-bearers is only for three years and the proceedings are delayed only to benefit the opposite party and in view of the non-approval of the school committee, the petitioner is put to untoward hardship and the elected office-bearers could not discharge their official functions for the past one year.

7.Per contra, Mr.D.Muruganandham, learned Additional Government Pleader submitted that challenging the election, a suit in O.S.No.151 of 2016 was instituted on the file of the District Munsif, Aruppukottai and the same is still pending. It is also contended that in 2013, a criminal case was registered against the President of the society and only due to the reasons, the school committee was not approved by the respondent.

8.In reply, the learned counsel for the petitioner would submit that as per section 12 of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, mere registration of a criminal case is not a bar. Further, the criminal case was registered only against the President of the society and no criminal case is pending against the members of the school committee. It is further submitted that the pendency of the civil suit was taken into consideration, while passing orders in W.P.(MD)No.4066 of



2017 and therefore, it cannot be cited as delay for approval of the school committee.

9. Heard both sides and perused the materials available on record.

10. Section 12(5) of the Tamil Nadu Recognized Private Schools (Regulations) Rules, 1974, reads as follows:-

"(5). The following persons shall not be eligible to become members of the Committee:-

(a) Minors;

(b) Mentally unsound persons;

(c) Persons convicted for criminal offence involving moral turpitude;

(d) A person who has been found responsible for any serious irregularity, as a result of enquiry by the Education Department."

11. A plain reading of the above section would show that mere registration or pendency of a criminal case is immaterial and conviction in a criminal case would act as a bar. But in this case, the request of the petitioner was rejected on the ground that the investigation is going on in the criminal case. Admittedly, there is no case pending against the members of the school committee. It is also not in dispute that the plaintiff (Karuppiah Nadar) in O.S.No.151 of 2016 has not contested the election, pursuant to the notification, dated 24.06.2016 and there is no interim order in the suit against the petitioner.

12. In view of the undisputed facts, this court is of the considered opinion that the respondent cannot have any justification in keeping the approval application of the petitioner pending and therefore, the petitioner is entitled to the relief as sought for in this writ petition.

13. In the result, the writ petition is allowed and the respondent is directed to approve the school committee proposal submitted by the petitioner on 08.05.2017, as expeditiously as possible, preferably within a period of two weeks from the date of receipt of the order copy. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Educational Officer,
Aruppukkotai,
Virudhunagar District.

+1cc to M/S. V.PANNEER SELVAM, Advocate, SR.No.60527.

<https://hcservices.ecourts.gov.in/hcservices/>

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15.06.2017

SDS/SV:MMS/SAR 2/21.06.2017/3P/3C