

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.25808 of 2007
and M.P.No.1 of 2007

Tamil Nadu Film Exhibitors Association
Represented by its General Secretary
Mr.R.Panneerselvam,
No.141/2, Poonamallee High Road,
Koyambedu, Chennai.

...Petitioner.

Versus

1.The District Registrar (Central Madras)
Society Registration,
No.72, Chamiers Road,
Teynampet,
Chennai-18.

2.N.E.Sambandam

3.R.Sathyaseelan
(R3 impleaded as per order of this court
dated 10.04.2008 in M.P.No.2 of 2007
in W.P.No.25808 of 2007.)

....Respondents.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the orders passed by the first respondent herein in his proceedings No.1218/E1/1/2007 dated 26.06.2007 and quash the same.

For Petitioner : Mr.P.Sunil
for T.Viswanatha Rao.

For Respondents : Mr.P.S.Purushothaman (for R1)
Government Advocate.

Mr.K.Sudalaikannu (for RR2 and 3)

O R D E R

The petitioner has filed the writ petition challenging the order passed by the first respondent in his proceedings No.1218/E1/1/2007 dated 26.06.2007.

2.The case of the petitioner is that, the petitioner Association is registered under the Tamil Nadu Societies Registration Act 1975. The petitioner Association was established mainly to encourage and develop the film industry in all its branches in particular reference to exhibition in Tamil Nadu among various other objects. All persons, who have obtained No Objection Certificate from the licensing authority in his favour for construction of cinema theatre or persons who has taken on lease to run a cinema are eligible to apply for admission, are members of the association. As per the bye-laws, the office bearers of the association shall be elected by the members of the association amongst themselves once in two years and the members who are life members are eligible for the post of office bearers and executive committee members. The procedure for conducting the election is also prescribed in detail under various sub-rules provided under the Memorandum of Articles of Association.

3.While so, the election for the present office bearers for the year 2005-07 was held on 18.12.2005 and were unanimously elected and hence there is no necessity for regular election process to be gone through as such. As the election process was duly completed, a memorandum was also filed and receipt was also obtained. Despite such unanimous election of the office bearers, at the instance of some disgruntled members, an extraordinary general body meeting was held and questioned about the election process and filed C.S.No.277 of 2006 before this Court and obtained orders in O.A.No.303 of 2006. Such being the position, the second respondent allegedly complained that the election of the office bearers was not conducted properly and there was some defalcation of Rs.10 lakhs in the accounts.

4.Hence, the first respondent issued a notice to the petitioner's association on 07.03.2007 and a reply was sent by the petitioner on 06.04.2007. Thereafter, enquiry was conducted on the complaint made by the second respondent and the first respondent passed an order on 26.06.2007 stating that the complaint made by the second respondent is baseless and the election for the office bearers for the year 2007-09 should be conducted by the society on due date in the month of September 2007 and with regard to the defalcation of amount, the first respondent held that there is no such defalcation and further accounts have to be gone into and if there is any defalcation, it should be reimbursed and the same was communicated to the

petitioner. Aggrieved by the order of the first respondent, the petitioner has filed the present writ petition.

5. Heard both sides.

6. The learned counsel for the petitioner would submit that the first respondent has no jurisdiction to entertain such application and he conducted the enquiry in a lethargic manner on the instigation of the second respondent, for which the petitioner is aggrieved. When there is no supportive evidence against the petitioner, the first respondent ought to have rejected the application. Hence, he prayed for allowing the writ petition.

7. On perusal of the impugned order dated 26.06.2007, There was certain allegation with regard to election and maintaining of accounts. However, there is no dispute challenging the election process. The second respondent had filed C.S.No.440 of 2008 before this Court and later it was transferred to the file of XVII Additional Court and numbered as O.S.No.13168 of 2010. Hence, no order is necessary since the subject matter is pending before the City Civil Court. However, with regard to the other allegation i.e., defalcation of Rs.10 lakhs and without obtaining consent from the Managing Committee and removal of the second respondent and other members are concerned, the first respondent-The District Registrar, had not passed any orders against the petitioner. However, whatever amount left out, can be revealed by filing the an audit report and the supporting accounts also with the permission of the Registrar. With regard to the allegation made against the first respondent, it is only the procedure formulated and it can be rectified at an earlier date. With regard to removal of other persons, directions are issued to take appropriate action.

8. In view of the above, I do not find any error in the impugned order passed by the first respondent in his proceedings No.1218/E1/1/2007 dated 26.06.2007. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Rm

To

The District Registrar (Central Madras)
Society Registration,
No.72, Chamiers Road,
Teynampet,
Chennai-18.

+1cc to Mr.T.Viswanatha Rao, Advocate, S.R.No.52349

W.P. No.25808 of 2007
and M.P.No.1 of 2007

MP (CO)

rrs 22/10/2018



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