

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.12.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WA.No.2592/2018 &
CMP.No.21078/2018

Dr.M.Ilanchelian .. Appellant / Writ
Petitioner

Versus

- 1 The Registrar
Bharathiar University
Coimbatore 641 046.
- 2 The Secretary
Bharathiyar University Teachers'
Association [BUTA],
Bharathiyar University
Coimbatore 641 046.
- 3 The Election Officer
Bharathiyar University Teachers'
Association [BUTA],
Bharathiyar University
Coimbatore 641 046.

.. Respondents /
Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letter Patent
against the order made in WP.No.1840/2018 dated 25.09.2018.

W.P. 1840/2018:

This Writ Petition filed under Article 226 of Constitution
of India praying to call for the records of the 1st respondent
in his proceedings vide Ref.No.E7/2017/ 16435-7-1 dated
17.10.2017 and the consequential letter of the 2nd respondent
dated 22.12.2017 on the basis of which elections to the
Bharathiar University Teachers Association (BHUTA) are being
held on 29.01.2018 in violation of the Bylaws of the Bharathiar
University Teachers Association (BHUTA) and the General Body
Resolution dated 27.04.2017 and quash the same and for a
consequential direction to the respondents to conduct the
Bharathiar University Teachers Association (BHUTA) elections in
accordance with the General Body Resolution dated 27.04.2017.

For Appellant : Mrs.N.Kavitha Rameshwar

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

The appellant is the writ petitioner in WP.No.1840/2018 and he made a challenge to the proceedings of the 1st respondent dated 17.10.2017 and the consequential letter of the 2nd respondent dated 22.12.2017 which pertain to the elections to the Bharathiyar University Teachers' Association [BHUTA] to be held on 29.01.2018 as the same is in violation of the By-laws of the said Association as well as the General Body Resolution dated 27.04.2017 with a consequential direction, directing the respondents to conduct elections in accordance with the said General Body Resolution dated 27.04.2017.

2 The writ petition, after contest, came to be dismissed on 25.09.2018, granting liberty to the writ petitioner to approach the Civil Forum for challenging the validity of the election of the newly elected office bearers. The appellant/writ petitioner, aggrieved by the dismissal of the writ petition, preferred this writ appeal.

3 The facts leading to the filing of this writ appeal have been narrated in detail and in extenso in the impugned order dismissing the writ petition, which is the subject matter of challenge in this writ appeal and therefore, it is not necessary to restate the facts once again.

4 A perusal of the impugned order, which is the subject matter of challenge, would disclose that on account of the decision taken by the majority of members, an Election Notification was published by the Election Officer and was done pursuant to the recommendation of the One Man Committee. The learned Judge has recorded a finding that it was never put to challenge by anyone and the appellant/writ petitioner had also participated in the election and thereafter, came forward to file the writ petition since he was not elected.

5 The learned Judge in paragraphs No.18 and 19 of the impugned order, also recorded a finding as to why One Man Committee came to be appointed and no one has challenged the decision of the University in appointing the One Man Committee to enquire into the controversy at the relevant point of time and the election was also held pursuant to the recommendation of the One Man Committee.

6 The learned Judge has also recorded the fact that the elected Office Bearers and the members of the Executive Committee are also not before this Court and therefore, it cannot adjudicate the validity of the election of the newly elected Office Bearers and Members of the Executive Committee. Since it is the dispute regarding conduct of election or the matter concerning the administration of the Society the learned Judge has recorded a categorical finding that the Civil Court alone is competent to decide the issue and citing the said reasons, had dismissed the writ petition.

7 The learned counsel for the appellant/writ petitioner has drawn the attention of this Court to the typed set of documents and would submit that since the conduct of election is purely an internal affair of BHUTA, the One-Man Committee cannot give any recommendation, based on which election ought to have been conducted and however, the fact remains and as rightly pointed out by the learned Judge in the impugned order, the decision to appoint the One-Man Committee has not been challenged and the election took place in which the appellant/writ petitioner had also participated ; but unfortunately, he was not elected.

8 The learned Judge has also pointed out that the elected Office Bearers or the Members of the Executive Committee, were also, have not been made as parties before this Court and even otherwise, the validity of the election cannot be put to challenge in a writ petition and the Civil Court alone, is competent to decide the said issue. In the considered opinion of the Court, the learned Judge, on correct appreciation of legal position and on going through the facts, has rightly held so and in the absence of any infirmity or error apparent on the face of record, this Court cannot interfere with the same and finds no merit in the writ appeal.

9 In the result, the writ appeal is allowed, confirming the order dated 25.09.2018 made in WP.No.1840/2018. No costs. Consequently, connected miscellaneous petition is also dismissed.

10 If the appellant/writ petitioner is so advised and if it is open to him under law, he is always at liberty to work out his remedy before the competent Civil Forum in respect of his grievances as to the said election.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

AP

To

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Coimbatore 641 046.
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+1 CC to Mr.N. Kavitha Rameshwar, Advocate sr 82709.

WA.No.2592/2018

RJI (CO)
SP(04/01/2019)