



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.09.2018

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CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.1594 of 2018
and
C.M.P. (MD) No.6966 of 2018

1.R.K.Joshuasivaraj
2.Joyce Evelyn Kumari ... Petitioners/Petitioners/Plaintiffs

Vs.

1.A.Sagaya Arockiaraj
2.A.Basin Joel
3.L.Leethiyal
4.P.Selvam
5.S.Charles
6.A.Felix
7.A.Justin
8.K.Robin
9.P.Nesamani
10.A.Selvaraj
11.J.J.L.Gnanaraj

12.Young Men's Christian Association,
Represented by its
General Secretary,
Office at I.F. EVR Road,
Pudur, Trichy-17.

13.The National Council of YMCA of India,
Represented by the National General Secretary,
No.1, Jail Singh Road,
New Delhi-110 001.

... Respondents

PRAYER : Petition filed under Article 227 of Constitution of India, to call for the records pertaining to the fair and decreetal order dated 27.06.2018 in I.A.No.404 of 2017 in O.S.No.132 of 2017 on the file of the I Additional District Judge(PCR), Tiruchirapalli and set aside the same by allowing the present Civil Revision Petition.

For petitioner : Mr.Isaac Mohanlal
Senior Counsel
for Mr.J.Madhu

<https://hcservices.ecourts.gov.in/hcservices/> : Mr.Shangar Murali

For R12 and R13: Mr.Xavier Rajini



For R6 : Mr.V.Meenakshi Sundaram
for Mr.R.Murugan

For R11 : Mr.B.Prasanna Vinoth
For R7 to R10 : Service Awaited

ORDER

The election to YMCA, Trichy, is the subject matter of this revision petition. It is a body registered under Tamilnadu Societies Registration Act, 1975. Elections are to be held once in three years. The election for the triennium 2017-2020 was to have been conducted on 09.09.2017. It appears that shortly before the holding of the said election, some 10 persons filed O.S.No.166 of 2017 before the I Additional District Judge, Trichy. I.A.No.399 of 2017 filed in the said suit was dismissed one day prior to the proposed election date. But then, the election could not took place on 09.09.2017 and the process got disrupted. That necessitated the institution of the present suit in O.S.No.132 of 2017 before the District Judge, Trichy by the revision petitioners herein. The revision petitioners filed I.A.No.404 of 2017 for appointment of an advocate commissioner and for other reliefs. The said I.A., was dismissed by order dated 27.06.2018. Questioning the same, this Civil Revision Petition has been filed.

2.Heard, the learned Senior Counsel appearing for the revision petitioner and the learned counsel for the respondents.

3.This Court is of the view that the issue on hand can be easily resolved. It is not in dispute that the tenure of the previously elected committee expired on 29.09.2017. The elections were originally scheduled to be held on 09.09.2017. It is not in dispute that the electoral list was finalised on 22.07.2017. It is again not in dispute that the plaintiffs in O.S.No.166 of 2017 on the file of I Additional District Judge, Trichy, were not successful in securing any relief. Therefore, the electoral list that was finalised on 22.07.2017 must form the basis for conducting the election in question.

4.The learned senior counsel appearing for the revision petitioner pointed out that YMCA, Trichy, though an independent society, is nevertheless affiliated to the national body. As per the Memorandum of Understanding entered into between the national body and the Trichy society, whenever issue such as the present one crop up, the national body can appoint an adhoc committee to oversee the affairs of the society.

5.In the very nature of things, an adhoc committee cannot admit new members. This Court can invoke the analogy of the Co-operative Society. When the tenure of the elected member expires and a new member is appointed, he cannot admit new members. When a legislature is dissolved and a care taker government is appointed, it cannot take major policy decisions. Therefore, the adhoc committee



also will have to conduct the election in question, only based on the position that obtained as on 22.07.2017. Since, this Court had already held that the adhoc committee cannot admit new members, the said list will form the basis.

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6.The respondents pointed out that as per the bye laws, the persons voting in the election will have to clear all the subscription arrears.

7.The learned Senior Counsel appearing for the revision petitioners submits that the members whose names are appearing in the voters list dated 22.07.2017, can be given an opportunity to clear all the subscription arrears up to date on or before 14.09.2018. This request is accepted and adhoc committee is directed to receive the subscription arrears from the members whose names are appeared in the voters list dated 22.07.2017. If the subscription arrears are not cleared by 14.09.2018, even if the name of the member concerned appears in the voters list, he will not be allowed, to take part in the election.

8.Next comes the question of appointment of the adhoc committee. This Court is of the view that the national body of YMCA is competent to conduct the election. No allegations have been made against the impartiality of the said body or the members of the adhoc committee. This Court is of the view that the adhoc committee need not be appointed to conduct the election in question. The adhoc body will conduct the election in question. To allay the apprehension of the revision petitioner, an observer can be appointed. The District Registrar, Tirunelveli is directed to appoint an officer of the department as an observer.

9.In the decision reported in AIR 1988 MAD 27 in *Periyar Self Respect Propaganda Institution Vs. State of Tamil Nadu*. The role and functions of an observer have been set out in the following terms.

"The nominee comes there only as an observer. He is only an observer. He is not given the right to participate in the proceedings. He is not given the right to vote. He is not given the right to interfere with the proceedings of the meeting, or the right to call for any particulars"

10.The revision petitioners are permitted to bring this order to the notice of all the other members, particularly the direction passed by this Court, with regard to clearing the subscription arrears.

11.The learned counsel appearing for the 12th respondent informs this Court that the election schedule has already been announced. The schedule reads as under.

YMCA TRICHY Election 2018-2021



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1.	Publication of Tentative voters List	17.08.2018 Friday
2.	Publication of final voters List	17.09.2018 Monday
3.	Issue of Nomination Forms	24.09.2018 to 26.09.2018 Monday to Wednesday @ 5.00 PM
4.	Submission of Nomination forms	27.09.2018 to 03.10.2018 Thursday to Wednesday @ 5.00 PM
5.	Last date for withdrawal of Nomination Form	08.10.2018 Monday @ 5.00 PM
6.	Publication of Candidate List	11.10.2018 Thursday @ 5.00 PM
7.	Annual General Body Meeting	13.11.2018 Tuesday @ 8.30 AM to 11.00AM
8.	Polling of Voters	13.11.2018 Tuesday @ 12.00 PM to 4.00 PM
9.	Counting of votes and Declaration	13.11.2018 Tuesday @ 4.30 PM

12.The 12th respondent is directed to adhere to the said time schedule. It is made clear that this Court has not adjudicated the rights of the plaintiffs in O.S.No.166 of 2017 on the file of the I Additional District Judge, Trichy and they are left open.

13.With these directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd
ASSISTANT REGISTRAR (CO)

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SUB ASSISTANT REGISTRAR

pnn



To:

1. I Additional District Judge, (PCR) Trichy.

2. The General Secretary,
Young Men's Christian Association,
Office at I.F. EVR Road,
Pudur, Trichy-17.

1CC TO MR. J. MADHU, ADVOCATE SR 82539

1CC TO MR. SHANKAR MURALI, ADVOCATE SR 82353

1CC TO MR. S. XAVIER RAJINI, ADVOCATE SR 82375

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ORDER MADE IN
C.R.P. (PD) (MD) .No.1594 of 2018
05.09.2018