



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.[MD]No.22815 of 2018

and

W.M.P.[MD]Nos.20682 and 20683 of 2018

S.Masanam

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of College Education,
Fort St. George,
Chennai-9.
- 2.The Director of Collegiate Education,
O/o.The Director of College Education,
EVK Sambath Building,
College Road,
Chennai.
- 3.The Joint Director of Collegiate Education,
O/o. The Joint Director of College Education,
Sellur Road,
Madurai.
- 4.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
- 5.The District Registrar,
O/o.District Registrar Office,
Periyakulam,
Theni District.
- 6.Pasumpon Muthuramalinga Thevar College,
Rep. by its Secretary and Correspondent,
P.Pandian,
Usilampatty,
Madurai District - 625 532.



7.Mr.P.Pandian,
Secretary and Correspondent,
Pasumpon Muthuramalinga Thevar College,
Usilampatty,
Madurai District.

8.The Kallar Kalvi Kazhazam,
Regn. No.138/1967,
Rep. by its Secretary,
Usilampatty,
Madurai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, to appoint a former Judge of the Madras High Court as Administrator to conduct election to the eighth respondent Society namely Kallar Kalvi Kazhagam to elect the next Executive Committee/Board of Management for the period of three years i.e., from December, 2018 to December, 2021 in accordance with bye-laws of the eighth respondent Society and the Tamil Nadu Societies Registration Act, 1975 and Rules and Guidelines issued by this Court in W.P.(MD) Nos.3611 and 5129 of 2013, dated 15.04.2013 within the time frame fixed by this Court.

For Petitioner	: Mr.M.Ajmalkhan, Senior Counsel, For Mr.S.Vanchinathan
For Respondents 1to3	: Mr.A.K.Baskarapandian, Special Government Pleader
For Respondents 4&5	: Mr.M.Murugan, Government Advocate
For Respondents 6to8	: Mr.E.V.N.Siva

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

This Writ Petition is at the instance of a Member and former President of Kallar Kalvi Kazhagam, Usilampatti, which is a Society registered under the Tamil Nadu Societies Registration Act and the substantial prayer is to appoint a former Judge of the High Court to act as Administrator to conduct election to elect the Board of Management of Kallar Kalvi Kazhagam for the period from December, 2018 to December, 2021 and to administer the affairs of the College during the interregnum, in the light of the directions issued by this Court earlier in W.P.(MD)Nos.3611 and 5129 of 2013.

**BACKGROUND FACTS:**

2. The Kallar Kalvi Kazhagam was formed with the object of establishing an Arts and Science College and other Educational Institutions to cater to the needs of socially and economically weaker Sections, who are living in and around Usilampatti Taluk. The Kallar Kalvi Kazhagam, pursuant to its object, established a College in the name and style of "Pasumpon Muthuramalinga Thevar College" at Usilampatti. The College is stated to be a reputed institution and there are more than 3000 students studying at present. This College was responsible for giving quality education to many belonging to economically poor, downtrodden and other weaker sections of the Society.

3. According to the petitioner, election to elect the Board of Management should be conducted in a transparent manner. It is the grievance of the petitioner that in case the present Managing Committee is permitted to conduct the election, it would be a farce. The petitioner has given string of reasons including registration of criminal cases against the members of the Board of Management, in support of his plea for appointment of a former Judge of the High Court as Administrator.

4. When the Writ Petition came up for admission on 15 November, 2018, Thiru.E.V.N.Siva, learned counsel, took notice on behalf of the respondents 6 to 8 and submitted that the present Managing Committee has no objection in appointing a former High Court Judge to conduct the election and to function as an interim Administrator till assumption of office by the new Board of Management. The learned counsel further submitted that the general body meeting is scheduled to be held on 25 November, 2018 and as such, made a request to take up the Writ Petition for final disposal today (22 November, 2018). We have, therefore, adjourned the matter to be posted today.

5. The respondents 6 to 8 filed a counter-affidavit agreeing to the course suggested by the petitioner for holding election to the Kallar Kalvi Kazhagam. The respondents 6 to 8 submitted that they should be permitted to transact the other items in the Agenda during the general body meeting scheduled to be held on 25 November, 2018, pursuant to the notification dated 29 October, 2018.

SUBMISSIONS:

6. The learned Senior Counsel for the petitioner submitted that the petitioner would be satisfied, in case a former Judge is appointed as an interim Administrator with authority to conduct the election to the Board of Management. The learned Senior Counsel further submitted that it is open to the respondents 6 to 8 to hold the meeting on 25 November, 2018, for the purpose of transacting all the other items in the Agenda except holding election to elect the Board of Management.



7. The learned counsel for the respondents 6 to 8, by placing reliance on the affidavit filed by the Secretary and Correspondent on behalf of the respondents 6 to 8, submitted that the present Board of Management has no objection in appointing a former Judge of this Court for the conduct of election. The learned counsel submitted that the respondents 6 to 8 should be permitted to hold the general body meeting for the purpose of passing the budget and other incidental matters except holding election.

DISCUSSION:

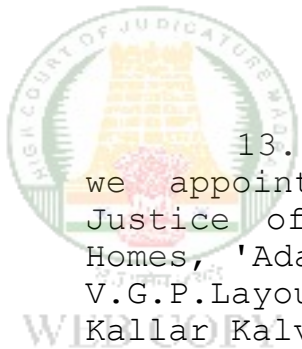
8. The petitioner has come up with this Writ Petition with a grievance that all is not well in the Kallar Kalvi Kazhagam. According to the petitioner, the Board of Management indulged in various acts of commission and omission and the same resulted in registering a case against them under the provisions of the Prevention of Corruption Act. The petitioner has taken up several other contentions in support of his plea for appointment of an Administrator for administering the Society and to conduct the election.

9. There is no need to narrate the case pleaded by the petitioner in its entirety on account of the consent given by the respondents 6 to 8 for appointment of an interim Administrator to conduct the election and for administering the Society during the interregnum.

10. There was a Writ Petition at the instance of a Member of Kallar Kalvi Kazhagam for a similar prayer for appointment of an Administrator to conduct the election to elect the Board of Management for the period from 2013 to 2016. This Court, by order dated 15 April, 2013 in W.P.(MD)Nos.3611 and 5129 of 2013, appointed Mr.Justice E.PADMANABHAN, a former Judge of this Court as interim Administrator. We are informed that pursuant to the said order, the Hon'ble Mr.Justice E.PADMANABHAN along with two advocates conducted the election and the present Board of Management took office.

11. Since the contesting respondents have no objection in appointing a former Judge of this Court to act as an interim Administrator with authority to conduct the election, there is no need for a factual adjudication of the issue raised in the Writ Petition. We are, therefore, of the view that the interest of justice would be sub-served by appointing a former Judge of this Court as an interim Administrator to conduct the election.

12. The general body meeting is scheduled to be held on 25 November, 2018. We permit the general body to deliberate the Agendas except the Agenda with regard to the election of the Office Bearers which is stated to be the Item No.5.



13. In view of the consensus arrived at among the parties, we appoint the Hon'ble Mr. Justice D. MURUGESAN, former Chief Justice of the Delhi High Court, having residence at Akshaya Homes, 'Adair', No.11-A, M.D., Sitaraman Avenue, 7th Cross Street, V.G.P. Layout, Injambakkam, Chennai-115, as the Administrator of Kallar Kalvi Kazhagam.

14. Thiru.D.Vinoth Kumar, Advocate, Enrollment No.588/2006, Chamber No.22, High Court Campus, Madurai-625 023 [Mobile No.98948 35235] and Thiru.M.Ponnambalam, Advocate, residing at No.20A, Christia Mangalam Street, Opp. to State Bank of India, Thirumangalam-625 706 [Mobile No.98421 11084] are appointed as Deputy Administrators to assist the Administrator. The Deputy Administrators shall function under the guidance and supervision of the Administrator and it is their duty to carry out the instructions given by the Administrator diligently.

15. The respondents 6 and 8 are directed to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) as monthly remuneration to the Administrator and a sum of Rs.1,00,000/- (Rupees one lakh only), each to the Deputy Administrators.

16. The expenditure incurred by the Administrator and the Deputy Administrators in connection with the election including the traveling, lodging and boarding on actual basis shall be borne by the respondents 6 and 8, in addition to the monthly remuneration.

17. The petitioner wanted the Administrator to take charge on 01 December, 2018, so as to enable him to commence the election process. The Administrator is requested to take charge on 01 December, 2018, in view of the expiry of the term of the present Management on 30 November, 2018.

18. We issue the following directions in the nature of guidelines, taking into account the previous orders passed in the matter of conducting election to the Kallar Kalvi Kazhagam:

(i) The election should be conducted in accordance with the registered Bye-laws of Kallar Kalvi Kazhagam and the provisions of the Tamil Nadu Societies Registration Act and the Rules made thereunder.

(ii) It is open to the Administrator to decide the mode of publication of election notification and service on individual members of the Society, taking into account the Bye-Laws of the Society and the procedure adopted by the former Administrators appointed by this Court.

(iii) The Administrator would be at liberty to decide all the issues in connection with the election.

(iv) The Administrator shall publish the electoral roll and will also deal with the objections to the voters list. After conducting enquiry, with respect to the



objections, the Administrator shall publish the final voters list.

(v) The statutory period between the date of publication of voters list, time for submission of objections and publication of final voters list, date of submission of nomination, scrutiny, withdrawal of nomination, publication of final list of candidates, the date of polling and counting will be fixed by the Administrator in accordance with the Bye-laws and the provisions of the Tamil Nadu Societies Registration Act and the Rules made thereunder.

(vi) The present Managing Committee is permitted to conduct the day-to-day affairs of Kallar Kalvi Kazhagam till the assumption of office by the new Committee under the guidance and supervision of the Administrator. However, no policy decision shall be taken by the outgoing Managing Committee. Similarly, no decision with respect to the election shall be taken by the outgoing Managing Committee or its members.

(vii) The District Registrar, Periyakulam, Theni District, is directed to assist the Administrator for the smooth conduct of election.

(viii) The Executive Committee shall extend their fullest co-operation to the Administrator in his functioning as the authority to conduct the election.

(ix) The Superintendent of Police, Madurai, is directed to give necessary police protection for the smooth conduct of election.

(x) The Administrator is permitted to take the assistance of Police, Revenue and all the other authorities for the peaceful conduct of the election and in case any such request for assistance is made, all such authorities shall extend their co-operation.

(xi) Since the period of the present Executive Committee expires on 30 November, 2018, every effort should be taken by the Administrator to conclude the election process early and to hand over the management to the newly elected Executive Committee.

19. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS-III)

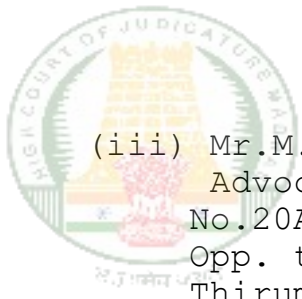


To

1. The Secretary to Govt
State of Tamil Nadu,
Department of College Education,
Fort St. George,
Chennai-9.
2. The Director of Collegiate Education,
O/o. The Director of College Education,
EVK Sambath Building,
College Road,
Chennai.
3. The Joint Director of Collegiate Education,
O/o. The Joint Director of College Education,
Sellur Road,
Madurai.
4. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
5. The District Registrar,
O/o. District Registrar Office,
Periyakulam,
Theni District.
6. The Superintendent of Police,
Madurai.

COPY TO:

- (i) The Hon'ble Mr. Justice D. Murugesan,
Akshaya Homes, 'Adair',
No.11-A, M.D.,
Sitaraman Avenue,
7th Cross Street,
V.G.P. Layout, Injambakkam,
Chennai-115.
- (ii) Thiru. D. Vinoth Kumar,
Advocate,
Chamber No.22,
High Court Campus,
Madurai-625 023.



(iii) Mr.M.Ponnambalam,
Advocate,
No.20A, Christia Mangalam Street,
Opp. to State Bank of India,
Thirumangalam-625 706.

WEB COPY

+2 CC To MR.S.VANCHINATHAN, Advocate SR. NO.96236

+2 CC To MR.E.V.N.SIVA, Advocate SR. NO. 96245

Order made in
W.P.[MD]No.22815 of 2018
Dated: 22.11.2018

SML

TR/SV/SAR-III(23.11.2018)8P 14C