

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.12258 of 2018
and W.M.P.No.14315 of 2018

M.Shiva kumar ... Petitioner
/versus/

The Registrar of Societies,
No.35, First Floor, Elango Nagar,
III Cross,
Puducherry ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the letter No.E.No.62/1973 dated 20.04.2018 issued by the respondent and quash the same.

For petitioner : Mr.N.Umapathy
for Annama
For Respondent : Mr.A.V.Ramalingam
Addl.Govt.Pleader (P)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (P) for the respondent.

2 The contention of the petitioner is that, he being the President of the Union Territory of Pondicherry Kabaddi Association has submitted the records to the Registrar of Companies as per the statute and bye laws of the Society. Whereas, based on some complaint given by one Ariasamy, the Registrar of Society has passed the impugned order even without affording an opportunity to him invoking Rule 5 of Pondicherry Societies (Registration) Rules 1969.

3 The respondent herein has passed an order dated 20.04.2018 based on the complaint given by Ariasamy wherein, he has considered the complaint made against the

petitioner and has found that the documents produced by the petitioner herein are defective and the petitioner has no locus standii to submit the documents on behalf of the Society and also impugned order indicates that to show cause why the action should not be taken against him for filing false /fraudulent documents with the Registrar within 14 days.

4 The main contention of the petitioner herein is that the respondent ought to have given an opportunity before passing the order detrimental to the petitioner. His conclusion regarding the locus standi of the petitioner regarding the Society without giving opportunity is against the principle of natural justice.

5 Whereas in the counter, the respondent has elaborated under what circumstances he had arrived at conclusion that the petitioner has no locus standii and he has filed defective documents warrants action under Rule 5(1) of the Pondicherry Societies (Registration) Rules, 1969, which reads as below:

"5.(1) The Registrar shall examine every statement, intimation, notice or other document received by him which is required by the Act to be registered, recorded or filed and, if he finds any such statement, intimation, notice or other documents to be defective or incomplete in any of the particulars required by the Act or their Rules, he shall return it to the party or society, tendering it for rectification or completion and, until such statement, intimation, notice or other document is so rectified or completed, he shall not register, record or file the same."

6 This Section empowers the Registrar to return the defective documents and call for the petitioner to rectify the defects and present the same. In this case through the impugned order beyond the power conferred on the Registrar under Rule 5(1) of the Pondicherry Societies (Registration) Rules, the respondent has proceeded further to initiate action against the petitioner herein under the premise that he has filed false/fraudulent documents, this Court finds that this portion of the impugned order is unsustainable.

7 The Registrar before venturing for taking action against the petitioner ought to have given

opportunity to the petitioner to defend his locus standi and genuineness of the documents he produced. Therefore, the petitioner herein is directed to appear before the respondent and explain about the documents produced by him and satisfy his locus to represent the Society. Thereafter, the Registrar shall pass appropriate orders in accordance with law. To that extent, the impugned order of the respondent is modified.

8 With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl

To

The Registrar of Societies,
No.35, First Floor, Elango Nagar,
III Cross,
Puducherry

+1cc to Mr.Annamma , Advocate SR.No. 71845

+1 cc to Government Pleader Sr.No. 71946

W.P.No.12258 of 2018
and W.M.P.No.14315 of 2018

A.SK(20/09/2019)

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