

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 01.08.2019

PRONOUNCING ORDERS ON 06.08.2019

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

WP No.21241 of 2019 and
WMP Nos.20444 of 2019 & 22011 of 2019

YMCA College of Physical Education,
Represented by its Principal,
Mr.George Abraham,
447, Annasalai,
Nandanam,
Chennai 600 035Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
E.V.K.Sampath Road,
Vepery, Chennai 600 007.
2. The Deputy Commissioner of Police,
Adayar,
Dr.Muthulakshmi Road,
Indira Nagar, Adayar, Chennai 600 040.
3. The Inspector of Police,
J-1, Saidapet Police Station,
Saidapet, Chennai 600 015.
4. Saraswathi Security Agency,
Represented by its Proprietor,
Mr.Nithyanandam,
Presently functioning illegally
At the premises of the
YMCA College of Physical Education,
No.447, Annasalai,
Nandanam, Chennai ..Respondents

Prayer : Writ petition filed under Article 226 of the
Constitution of India prays to issue a Writ of Mandamus
directing the respondents 1 to 3 to provide adequate police

protection to prevent the 4th respondent or any of its men, agent, servants and subordinates from trespassing or continuing to trespass into the premises of the petitioner college at Nandanam, Chennai.

For Petitioner : Mr.Govind Chandrasekhar

For Respondents : Mr.Mohammed Riyaz
Additional Public Prosecutor
for A1 to A3.
Mr.R.Balachandran for R4.

COMMON ORDER

This writ petition has been filed for a direction to the respondent police to provide police protection and to prevent the 4th respondent from trespassing into the premises of the petitioner college.

2. There was a dispute concerning the election to the President of the National Council and it became a subject matter of a civil proceeding before the Delhi High Court. The Delhi High Court by an order dated 19.07.2019, considered the entire dispute and issued certain directions. The directions that are relevant for this case is extracted hereunder :-

68....(11) Upon publication of the final list of good standing members, the Election Committee shall announce the schedule of elections for the National Executive and for the post of President. Nominations and counter Nominations shall be invited. Until then, the current President Mr.J.B.Koshy shall continue as officiating President. He shall, however, not take any decision which would have an impact on the electoral process, but would be entitled to handle day to day administration of NCYI.

17. The fee of the members of the Election Committee is fixed at Rs.7 lakhs to be paid to Justice Kurian Joseph (Retd.) and Rs.5 lakhs to be paid to Sister Nirmalini as a lumpsum at this stage. The fee of the Local Commissioner shall be Rs.50,000/- per month till the Election Committee discharges him.

3. Mr.J.B.Koshy, who was directed to continue as Officiating President, convened a meeting of the Management Board of the YMCA College of Physical Education on 09.07.2019. The meeting was attended by seven members of the Board. Apart from other subjects that were considered in the meeting, one of the subject that was considered, was to change the Security Services Agency. This was taken in the Agenda as Item No.7. The

following resolution was passed in the Meeting :-

VII. Change of Security Service Agency:-

Note : The present security service agency Saraswathy Security Agency owned by Mr.Nithyanandam is creating trouble instead of keeping law and order. They have objected even the entry of the car of the Principal and even prevented students coming for admission. By invoking power under Section 23, subject to ratification of the Management Committee, a new agency called "Wings" is appointed so that there is no disturbance in the working of the college Principal and staff and for admission of students.

Principal stated that instead of providing security, Mr.Nithyanandam is creating problems and he is not allowing the loyal workers and intimidating him. Considering the above facts, Chairman's proposal is accepted and it was resolved to appoint M/s.Wings brands Activations (I) Pvt. Ltd., Agency until further order. In view of the urgency of the situation, Chairman was asked to implement the decision with immediate effect.

4. This resolution was informed to the 4th respondent and the 4th respondent was asked to stop continuing as the Security Agency in the College. However, the 4th respondent continued to remain inside the college premises in the guise of providing security and the same caused a very hostile atmosphere inside the college. The Security Agency is alleged to have stopped even the Principal from entering into the campus and the situation was going out of control.

5. A representation was made to the respondent police seeking for police protection in order to prevent any untoward incident inside the campus.

6. The learned counsel for the petitioner brought to the notice of this Court the earlier order passed by this Court in CrI OP No.17020 of 2019 dated 01.07.2019. The said order is extracted hereunder :-

This petition has been filed seeking for police protection.

2.It is seen from records that there is already a Scheme suit which is pending before the High Court of Delhi at New Delhi and interim orders have been passed in the said suit.

3.It is the grievance of the petitioner that the day to day functioning of the YMCA College of Physical Education, Nandanam is being disrupted by the

counter party and the orders of the National President, who is a former retired Chief Justice, is not allowed to be implemented under threat. Therefore, a complaint was given to the respondent police seeking for police protection on 20.06.2019. Since no action has been taken, the present petition has been filed seeking for police protection.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

5. This Criminal Original Petition is disposed of with a direction to the 3rd respondent to immediately call the parties for an enquiry and ensure that there is no unnecessary law and problem created in running the YMCA College of Physical Education, Nandanam. The parties shall be relegated to the Competent Civil Court in order to workout their remedy and no one should be permitted to create a hostile atmosphere inside the college.

7. The learned counsel for the petitioner submitted that pursuant to the orders passed by this Court, the respondent police called the parties for an enquiry. A ruckus was created in the meeting. The learned counsel for the petitioner submitted that in spite of the order passed by the Delhi High Court, the rival parties without getting any appropriate directions from the Delhi High Court are continuing to disrupt the functioning of the college with the help of the 4th respondent security Agency.

8. The learned Additional Public prosecutor appearing on behalf of the respondent police submitted that pursuant to the directions given by this Court, the respondent police is maintaining a minimum police force inside the campus and is ensuring that no law and order problem is created inside the campus. The learned counsel also made it clear that the respondent police is not interfering with the day to day functioning of the college, since it is already a subject matter before the Delhi High Court.

9. The learned counsel appearing on behalf of the 4th respondent submitted that the 4th respondent cannot be removed, since the so called resolution passed by the Management Board is illegal and the Board did not have the power or authority to pass such a resolution. The learned counsel further submitted that the Principal who has filed the present petition does not have the locus standi to represent the institution and he has been vested with the powers of only performing his function as Principal and nothing more.

10. One Mr.V.Ashokan Solomon, claiming himself to be a Senior Vice President of National Council of YMCAs of India has filed a impleading petition before this Court and curiously he is also represented by the same counsel, who represents the 4th respondent in this writ petition. This impleading petition is not entertained by this Court, since this Court is not going into the inter se dispute between the parties since the same is already a subject matter before the Delhi High Court. Accordingly, the WMP No.22011 of 2019 is dismissed.

11. This Court has to focus only with regard to the issue as to whether the 4th respondent can continue to function as a Security Agency in the YMCA College.

12. The 4th respondent has no locus standi to question any resolution passed by the Management Board. The 4th respondent cannot continue to function as a Security Agency when their services have been terminated. If at all, the 4th respondent has any grievance regarding the termination, they have to agitate their rights in the manner known to law and the 4th respondent cannot be permitted to occupy the premises against the resolution that has been passed by the Management Board on 09.07.2019. If the 4th respondent continues to stay inside the college premises, it will amount to criminal trespass. The 4th respondent cannot be permitted to act as a spokes person for the rival party.

13. The Delhi High Court has already given directions for the conduct of the election, for which the Hon'ble Justice Kurien Joseph (Retd.) has been appointed to head the Election Committee. Pending the election, certain interim directions have also been given by the Delhi High Court. Accordingly, Mr.J.B.Koshy has been directed to continue as a officiating president. He along with the Members have constituted a meeting of the Management Board and a resolution has been passed to remove the 4th respondent from the Security services. The Jurisdiction or authority to pass such a resolution cannot become a subject matter before this Court. If at all, any one is aggrieved with the resolution, they should only move the Delhi High Court and work out their remedy in accordance with law.

14. In view of the above, there shall be a direction to the 3rd respondent namely the Inspector of Police, Saidapet Police Station to ensure that the 4th respondent does not create any law and order problem inside the campus by attempting to continue as the Security Agency and it is left open to the 4th respondent, if they are aggrieved, to agitate their rights in accordance with law.

15. This Writ petition is disposed of accordingly.
No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Office of the Commissioner of Police,
E.V.K.Sampath Road,
Vepery, Chennai 600 007.
2. The Deputy Commissioner of Police,
Adayar,
Dr.Muthulakshmi Road,
Indira Nagar, Adayar, Chennai 600 040.
3. The Inspector of Police,
J-1, Saidapet Police Station,
Saidapet, Chennai 600 015.

+1cc to Mr.Govind Chandrasekhar, Advocate, S.R.No. 67291

+1cc to Mr.R.Balachandran, Advocate, S.R.No. 67932 (13/08/2019)

WP No.21241 of 2019
WMP Nos.20444 of 2019 & 22011 of 2019

MG (CO)
GN(08/08/2019)

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