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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR. JUSTICE C.SARAVANAN**

W.A(MD)Nos.118 to 120 and 124 of 2019

and

C.M.P.(MD)Nos.833, 834, 835 and 861 of 2019

**W.A. (MD)No.118 of 2019:-**

B.K.Shridhar ... Appellant/4<sup>th</sup> Respondent

Vs.

1.The Secretary & Correspondent,  
Cardamom Planters' Association College,  
Pankajam Nagar,  
Bodinayakkanur - 625513,  
Theni District. ...1<sup>st</sup> Respondent/Writ Petitioner

2.The State of Tamil Nadu,  
represented by its Secretary,  
Department of Higher Education,  
Fort St.George, Chennai - 600 006.

3.The Director of Collegiate Education,  
College Road, Chennai - 600 006.

4.The Joint Director of Collegiate Education,  
Madurai Region, Madurai,  
Madurai District - 625020.

... Respondents 2 to 4/Respondents 1 to 3

Prayer: Writ Appeals filed under Clause 15 of the Letter Patent, against the order of this Court in W.P.(MD)No.22878 of 2016, dated 24.10.2018.

Prayer in WP(MD). 22878/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent Director in Na.Ka.No.38455/G2/2016 dated 27.10.2016, and quash the same and further Direct the 2nd respondent Director and the 3rd respondent



Joint Director to register / approve the name of the petitioner as Secretary of the College namely Cardamom Planters Association College,.

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|---------------|----------------------------------------------------------------|
| For Appellant | :Mr.E.V.N.Siva                                                 |
| For R1        | :Mr.Issac Mohanlal<br>Senior Counsel<br>for Mr.H.Thayumanasamy |
| For R2 to R4  | :Mr.V.R.Shanmuganathan<br>Special Government Pleader           |

**W.A. (MD) No.119 of 2019:-**

Cardamom Planters' Association College Society,  
(Society Registration No.36/1972),  
Represented by its President, A.S.S.Subbaiah,  
P.O.No.29, Pankajam Nagar,  
Bodinayakannur - 625513,  
Theni District.

... Appellant/5<sup>th</sup> Respondent

Vs.

- 1.The State of Tamil Nadu,  
represented by its Secretary,  
Department of Higher Education,  
Fort St.George, Chennai - 600 006.
- 2.The Director of Collegiate Education,  
College Road, Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,  
Madurai Region, Madurai,  
Madurai District - 625020.
- 4.The Inspector General of Registration,  
Chennai -28.
- 5.The District Registrar (Administration),  
Office of the District Registrar,  
Periyakulam, Theni District.

6.S.V.Subramanian

... Respondents/Respondents

Prayer: Writ Appeals filed under Clause 15 of the Letter Patent,  
<https://hcservices.ecourts.gov.in/hcservices/>  
against the order of this Court in W.P.(MD)No.6541 of 2017, dated  
24.10.2018.



Prayer in WP(MD). 6541/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 5th respondent in his proceedings **ந.க.எண்** 1296/அ2/2017-2 dated 28.03.2017 and the consequential order passed by the 5th respondent in his proceedings **ந.க.எண்** 1296/அ2/2017-4 dated 28.03.2017 and quash the same as illegal and consequentially to direct the 5th respondent to take the Form VII submitted by the petitioner on file within the period that may be stipulated by this Court.

|               |                                                                |
|---------------|----------------------------------------------------------------|
| For Appellant | :Mr.E.V.N.Siva                                                 |
| For R1 to R3  | :Mr.V.R.Shanmuganathan<br>Special Government Pleader           |
| For R4 and R5 | :Mr.M.Murugan,<br>Government Advocate                          |
| For R6        | :Mr.Issac Mohanlal<br>Senior Counsel<br>for Mr.H.Thayumanasamy |

**W.A. (MD) No.120 of 2019:-**

B.K.Shridhar ... Appellant/5<sup>th</sup> Respondent

Vs.

- 1.The Secretary to Government,  
Higher Education Department,  
Secretariat, Chennai.
- 2.The Director of Collegiate Education,  
9th Floor, E.V.K.Sampath Building,  
College Road, Chennai - 600 006.
- 3.The Regional Joint Director of Collegiate Education,  
Palam Station Road, Sellur, Madurai.
- 4.S.Ramanathan ... Respondents/Respondents

Prayer: Writ Appeals filed under Clause 15 of the Letter Patent, <https://hcservices.ecourts.gov.in/hcservices/> against the order of this Court in W.P.(MD)No.14399 of 2017, dated 24.10.2018.



Prayer in WP(MD). 14399/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus direction in the nature of writ , forbearing the 2nd respondent from granting approval to the 4th respondent as the secretary of the cardamom planters association college, CPAC, Bodinayakkanur, till the outcome of the case C.C.No.31/2017 on the file of the judicial magistrate, Theni.

|               |                                                                 |
|---------------|-----------------------------------------------------------------|
| For Appellant | :Mr.E.V.N.Siva                                                  |
| For R1 to R3  | :Mr.V.R.Shanmuganathan<br>Special Government Pleader            |
| For R4        | :Mr.Issac Mohanlal<br>Senior Counsel<br>for Mr. H.Thayumanasamy |

**W.A. (MD)No.124 of 2019:-**

- 1.The State of Tamil Nadu,  
Represented by its Secretary,  
Department of Higher Education,  
Fort St.George, Chennai-600 009.
  - 2.The Director of Collegiate Education,  
College Road, Chennai - 600 006.
  - 3.The Joint Director of Collegiate Education,  
Madurai Region, Madurai,  
Madurai District - 625 020.
- ... Appellants/Respondents 1 to 3

Vs.

- 1.The Secretary & Correspondent,  
Cardamom Planters' Association College,  
Pankajam Nagar,  
Bodinayakkanur - 625 513,  
Theni District. ...1<sup>st</sup> Respondent/Writ Petitioner
- 2.B.K.Shridhar ... 2<sup>nd</sup> Respondent/4<sup>th</sup> Respondent  
(R4 is Impleaded vide court order dated: 1/03/2018  
in WMP(MD)No.1328 of 2018)



Prayer: Writ Appeal filed under Clause 15 of the Letter Patent, against the order of this Court in W.P.(MD)No.22878 of 2016, dated 24.10.2018.

Prayer in WP(MD). 22878/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent Director in Na.Ka.No.38455/G2/2016 dated 27.10.2016, and quash the same and further Direct the 2nd respondent Director and the 3rd respondent Joint Director to register / approve the name of the petitioner as Secretary of the College namely Cardamom Planters Association College,.

For Appellants :Mr.V.R.Shanmuganathan  
Special Government Pleader.

For R1 :Mr.Issac Mohanlal  
Senior Counsel  
for Mr.H.Thayumanasamy

**COMMON JUDGMENT**

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

W.A.(MD)No.118 of 2019 is directed against the order passed in W.P.(MD)No.22878 of 2016, dated 24.10.2018. Similarly, W.A(MD) No.119 of 2019 is directed against the order passed in W.P.(MD) No.6541 of 2017, dated 24.10.2018.

2. W.A.(MD)No.120 of 2019 is directed against the order passed in W.P.(MD)No.14399 of 2017, dated 24.10.2018. Similarly, W.A.(MD)No.124 of 2019 is directed against the order passed in W.P.(MD)No.22878 of 2016, dated 24.10.2018.

3.The brief facts that are necessary for the disposal of these appeals are as follows:

3.1.The Cardamom Planters' Association (herein after referred to as parent society or parent body) is the Parent Body and educational agency, which is also registered as a Society under the Societies Registration Act. The Cardamom Planters' College Society (herein after referred to as the College Society) is also a separate society formed for the administration of the college known as Cardamom Planters' Association College, which was established by the parent society. It appears that there are some dispute with regard to the parent society as well as the college society. The fact remains that four suits are pending as on date and they are the suits O.S.Nos.75 and 76 of 2016 and O.S.No.211 and 219 of 2017 on the file of the District Munsif-cum-Judicial Magistrate Court,



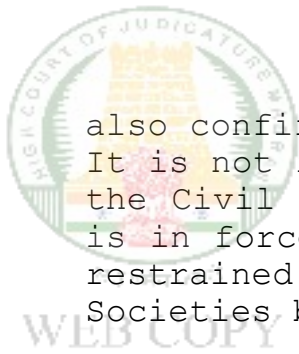
Bodinayakannur.

3.2. O.S.No.75 of 2016 has been filed by the Parent Society, represented by its President, one S.V.Subramanian. Similarly, O.S.No.76 of 2016 has been filed by the College Society represented by one S.Ramanathan. It is admitted that the election of office bearers of the parent body is being conducted once in three years and that consequently, election to the College Society is also conducted. The College Society was constituted by the Parent Body and the Parent Body acts as the educational agency apart from the other functions that were enumerated in the by-laws of the society.

3.3.O.S.No.75 of 2016 was filed to declare the extraordinary general body meeting, dated 04.09.2016 as illegal and non-est in the eye of law and consequently to declare the resolution and selection of office bearers and constitution in the extraordinary general body meeting as invalid. The suit is also for consequential perpetual injunction restraining defendants 1 and 2 and their men from interfering in any way with the day-today administration of the College Association and also restraining the defendants from interfering with the plaintiff and its members in attending and convening the Annual General Body meeting of the first defendant Association on 25.09.2016.

3.4.The second suit is also for a similar relief insofar as the College is concerned. In the applications in I.A.Nos.391 and 392 of 2016 in the respective suits, filed by the plaintiff in the said suits for temporary injunction restraining the defendants from interfering with the day today administration of the plaintiff's association, an interim order was granted to the effect that the respondents / defendants in the respective applications shall not interfere with the day to day administration of the parent society and the college society being done by the respective plaintiffs / petitioners. However, it appears that this order was later set aside by this Court in a Civil Revision Petition and the matter was remitted back to the lower Court to pass fresh orders. Thereafter, by an order dated 28.02.2017, the Civil Court, namely, the District Munsif Court-Judicial Magistrate Court, Bodinayakkanur, allowed the applications in I.A.Nos.391 and 392 of 2016 in the respective suits. It is not in dispute that the appellants herein belonged to the defendants' group.

3.5.In both the applications, the learned District Munsif, Bodinayakkanur, granted interim order restraining the respondents therein, namely, the defendants in the suit, from interfering with the day-today administration of the Parent Society and the College Society. Though the order of the Civil Court granting the interim injunction in respect of parent society as well as the college society was put to challenge by the defendants in the suit in CMA.Nos.3 and 4 of 2017, the Subordinate Court, Theni, dismissed the said appeals. It is stated further that the orders of the Subordinate Court, Theni, in the civil miscellaneous appeal were



also confirmed by this Court in C.R.P.(MD)Nos.1196 and 1197 of 2018. It is not in dispute that the order of interim injunction granted by the Civil Court, namely, the District Munsif Court, Bodinayakkanur, is in force as on date and that the defendants in the two suits are restrained from interfering with the day-today administration of the Societies being done by the respective plaintiffs in the suits.

3.6.From the plaint in O.S.Nos.75 and 76 of 2016, it is seen that a rival claim was made by certain individuals by convening an Extraordinary General Body meeting. It is stated that the plaintiff in O.S.Nos.75 and 76 of 2016 have convened an Annual General Body meeting and the election was conducted on 25.09.2016 in the Annual General Body meeting. However, a parallel meeting was conducted earlier by the dissenting groups by convening an Extraordinary General Body meeting. They have also elected Officer Bearers. Now, the disputes between the two rival groups are the subject matter of the two suits filed by the societies represented by the Office Bearers. The rival groups, who have also conducted an election pursuant to the Extraordinary General Body meeting, filed two suits in O.S.Nos.212 and 219 of 2016 before the District Munsif-cum-Judicial Magistrate Court, Bodinayakkanur. Earlier, Form VII submitted by both groups were not accepted in respect of college society citing the pendency of civil suits.

3.7.During the pendency of the Civil suits, the 5<sup>th</sup> respondent in W.P.(MD)No.22878 of 2016 passed an order, dated 27.10.2016. It is seen that the order, dated 27.10.2016, was based on the dispute that was pending before the Civil Court with regard to the administration of the College. Though the societies represented by one Ramanathan as Secretary, sought for approval for his appointment as Secretary of the College, it is noticed that the rival claim was also made by the opposite group. Taking into account the fact that the District Registrar has not accepted Form-VII submitted by either of the groups and that four suits are pending, it was observed that a decision cannot be taken with regard to the approval of the appointment of Secretary in respect of the College.

3.8.In the said circumstances, a direction was issued in terms of G.O.Ms.No.1021, Educational Department, dated 02.09.1985 for direct payment of pay and allowance. Though this order was passed only for a limited period from September-2016 to November-2016, it is not in dispute that it was periodically renewed by extending the period mentioned in the order, dated 27.10.2016 and several orders have been passed in this regard following the order dated 27.10.2016. This order dated 27.10.2016 was challenged in W.P. (MD)No.22878 of 2016, which is the subject matter of W.A.(MD)No.124 of 2019 and W.A(MD)No.118 of 2019. It is to be noted that it is only during the pendency of the writ petition, challenging the order dated 27.10.2016, subsequent orders have been passed extending the period.



3.9.The appellant in W.A.(MD)No.120 of 2019 has filed a writ petition in W.P.(MD)No.14399 of 2017 for issuing a writ of mandamus forbearing the second respondent from granting approval to the fourth respondent as the Secretary of the Cardamom Planters' College, Bodinayakkanur, till the outcome of the case in C.C.No.31 of 2017 on the file of Judicial Magistrate Court, Theni. It was alleged in the criminal case that signature of erstwhile Secretary of the College had been forged by the fourth respondent in a resignation letter alleged to have been submitted by the said Secretary.

3.10.The appellant in W.A.(MD)No.119 of 2019 has filed writ petition in W.P.(MD)No.6541 of 2017 to quash the impugned order passed by the fifth respondent, namely, the District Registrar (Administration), dated 28.03.2017 and the consequential order dated 28.03.2017 and to direct the fifth respondent to take up the Form-VII submitted by the appellant on file. From the facts, all the writ petitions are connected as they arose out of the dispute between two groups, namely, the appellants' group and the group of private respondents in these appeals, with regard to the management and administration of the College, run by the parent Society.

4.Having regard to the interim order granted by the Civil Court, this Court also approve the view taken by the learned Single Judge that the Educational Department is also expected to give respect to Civil Court's order. Ultimately, the learned Single Judge has held that the grievance against the election of Office Bearers has to be ultimately decided by the Civil Court and that the rival groups cannot invoke the extraordinary jurisdiction of this Court under Article 226 of Constitution of India in view of the interim order that has been granted by the Civil Court in the interim application, which was confirmed in the appeal and further revision by this Court in C.R.P.(MD)Nos.1196 and 1197 of 2018.

5.W.P.(MD)Nos.22878 of 2016, 6541 and 14399 of 2017 were disposed of by the learned Single Judge and the operative portion of the order passed by the learned Single Judge is found in from paragraph 26, which is extracted as follows:

**26.** In the above circumstances,

- (i) W.P.(MD) No.14399 of 2017 seeking to resist the claim of the petitioner in W.P.(MD) No.22878 of 2016 from being recognized as Secretary of the College is not maintainable and therefore, this Court has no hesitation to dismiss the writ petition. In case the petitioner in W.P.(MD) No.14399 of 2017 has any grievance in regard to the subject writ petition, it is always open to him to approach the competent Civil Court, if he is so advised. **Accordingly, W.P.(MD) No.14399 of 2017 is**

**dismissed.**



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(ii) As regards W.P.(MD) No.6541 of 2017 is concerned, the District Registrar, Theni District, has *prima facie* concluded that there was no proper election and no proper convening of General Body Meeting on 11.09.2016 and therefore, refused to take Form-VII on file. This Court does not see any infirmity in the orders passed by the District Registrar and therefore, the writ petition has to be dismissed as being without merits and substance. **Accordingly, W.P.(MD) No.6541 of 2017 is dismissed.**

(iii) As far as W.P.(MD) No.22878 of 2016 is concerned, the rights of the petitioner being established by granting interim orders by the Trial Court in his favour, which have been confirmed upto this Court in C.R.P.(MD) Nos.1196 & 1197 of 2018, the petitioner, in the considered opinion of this Court, is entitled to the fruits of the interim orders of the Civil Court, which means that the petitioner's election as Secretary has to be approved by the respondents 2 and 3.

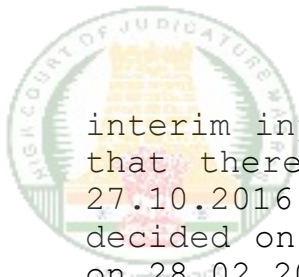
(iv) As stated above, at the time when the order was passed by the second respondent on 27.10.2016, the position was different. But, after passage of time, in view of the subsequent legal development, wherein the issue has been taken on appeal upto this Court and this Court has confirmed the orders passed by the Trial Court on 09.07.2018, the petitioner, therefore, has become entitled to be recognized as Secretary and in view of such recognition, he shall be granted all attendant benefits by the respondents 2 and 3.

(v) In view of the above conclusion, **W.P.(MD) No.22878 of 2016 is allowed** and the impugned proceedings in Na.Ka.No.38455/G2/2016, dated 27.10.2016, issued by the second respondent, is hereby set aside. The respondents 2 and 3 are directed to approve the name of the petitioner as Secretary of the College, namely, Cardamom Planters' Association College and pass further orders as they deem it fit in the circumstances of the case. Such an exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order.

(vi) No costs. Consequently connected miscellaneous petitions are closed.

6.The submissions of the learned Counsel for the appellant in W.A.(MD) Nos.118 to 120 of 2019 are as follows:

6.1.The impugned order in W.P.(MD) No.22878 of 2016, was passed, when there was a dispute between two factions. Based on change of circumstances, the writ petition filed by the Society cannot be sustained. The learned Counsel further submitted that the



interim injunction granted by the Civil Court was on 28.03.2017 and that therefore, the order passed by the educational authority on 27.10.2016 cannot be invalid. The validity of the order cannot be decided on the basis of interim order that was granted subsequently on 28.02.2017.

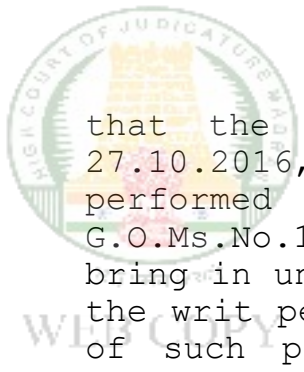
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6.2. The learned Counsel further submitted that the order dated 27.10.2016 is only for a period of three months, that is from September'2016 to November'2016 and that the said order cannot be set aside by the learned Single Judge, since the subsequent orders of the educational authorities extending the time are not challenged by filing any other writ petition by the petitioner in W.P.(MD) No.22879 of 2017. The learned Counsel further submitted that inasmuch as there was further extension by separate individual orders, the learned Single Judge ought to have seen that the original order, dated 27.08.2017 has become infructuous by virtue of the subsequent orders and that, it cannot be set aside where subsequent orders have not been challenged.

7. Similar arguments were also advanced by the learned Special Government Pleader in writ appeal in W.A.(MD)No.124 of 2019. The learned Special Government Pleader submitted that the Joint Director of the Collegiate Education has discharged his duties enumerated under G.O.Ms.No.1021, Educational Department, dated 02.09.1985 for the period from September'2016 to November'2016, as per the impugned proceedings, dated 27.10.2016. Since the petitioner in W.P.(MD) No.22878 of 2016 failed to challenge the subsequent orders passed by Joint Director of Collegiate Education, dated 28.12.2016, dated 24.03.2016, 24.04.2016, 26.05.2017 and 08.08.2017, authorising the Joint Director of the Collegiate Education, Madurai to discharge his duties enumerated under the Government Order, vide G.O.Ms.No.1021, dated 02.09.1985, the writ petition in W.P.(MD)No.22878 of 2016 ought to have been dismissed as infructuous.

8. When the validity of the election is now pending for adjudication before the competent Civil Court in O.S.Nos.75 and 76 of 2016 and in O.S.Nos.211 and 219 of 2016 and the Form-VII was not accepted by the District Registrar, as on the date when the order was passed, the learned Special Government Pleader further submitted that the petitioner in W.P.(MD)No.22878 of 2016 has no right to challenge the impugned order as the order dated 27.10.2016 was passed on the basis of the facts that existed on the date of order and nobody can have any grievance, particularly, when the order was perfectly in order as it was passed by the competent authority in exercise of his statutory power.

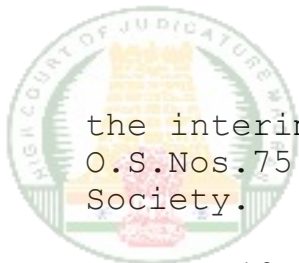
9. The learned Special Government Pleader also submitted that the impugned order of direct payment as per the provisions of Tamilnadu Recognised Private Colleges (Regulation) Act, was only valid for a period from 26.09.2016 to 30.11.2016 and that the impugned order which has worked itself out by efflux of time cannot be set aside by allowing the writ petition. He further submitted



that the passing of orders by setting aside the order dated 27.10.2016, all lawful acts of the educational authorities, who has performed several functions as per the Government Order vide, G.O.Ms.No.1021, dated 02.09.1985 are questionable and that would bring in undesired results. It is stated that by the order passed in the writ petition, all such orders that had been passed in exercise of such power pursuant to the order dated 27.10.2016 would be invalidated and that the order of the learned Single Judge without considering the legal implications renders the order invalid.

10. Having regard to the admitted facts, this Court is of the view that the appellant in W.P.(MD)Nos.118 to 120 of 2019 has no *locus standi* to question the order passed in W.P.(MD)No.22878 of 2016. It is not in dispute that the appellants in W.A.(MD)Nos.118 to 1120 belonged to the rival faction. It is not in dispute that the interim order granted by the Civil Court, dated 28.02.2017, in I.A.Nos.391 and 392 of 2016 in O.S.Nos.75 and 76 of 2016 is still in force. Having regard to the sequence of events, the Parent Society and the College Society were deemed to be in office pursuant to a valid election and that their right to continue as Office Bearers both in respect of Parent Society as well as in respect of College Society is beyond doubt and supported by a valid order of civil Court, which is competent. It is to be pointed out that the members belonging to the rival faction, namely, the appellants' group, have filed two suits and the same are also pending before the Subordinate Court, Theni. Merely because some persons have made rival claims and suits filed by them are pending, this Court cannot ignore the interim order passed by the learned District Munsif Court, Bodiyanakkanur in the suit filed by the Parent Society, represented by previous office Bearers and the College Society.

11. Both the Parent Society as well as the College Society had filed two suits and obtained an order of interim injunction, so that the Office Bearers, who were in office at the time of institution of the suits, shall continue to administer the Society as well as the College without any interruption by defendants in the suits. The appellants' group have also instituted two suits, which are pending before the Subordinate Court, Theni. The identity of the appellants as persons claiming under the so called Office Bearers, who claim themselves to be elected, pursuant to the Extraordinary General Body Meeting alleged to have been convened by them is not in dispute. It is admitted that there are about 488 members in the parent association. It is also admitted that the notice for convening the Extraordinary General Body Meeting was published in the newspaper, 'Madurai Mani'. The rival claim of appellant is only on the basis of an election said to have been conducted in that Extraordinary General Body Meeting. The glaring irregularities pointed out by the lower Court in convening Extraordinary General Body Meeting including absence of Quorum would only show that the appellants have no *prima facie* case to sustain their claim. In such circumstances, this Court has a first impression that the writ petition filed in W.P.(MD)Nos.6541 of 2017 and 14399 of 2017 are only to circumvent

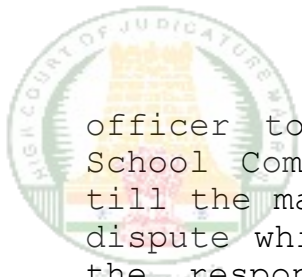


the interim order that was granted by the Civil Court in the suit in O.S.Nos.75 and 76 of 2016 filed by the parent Society and College Society.

12.The writ petition in W.P.(MD)No.6541 of 2017 was filed to quash the proceedings of the fifth respondent, dated 28.03.2017 rejecting the Form-VII submitted by the petitioner therein. It is stated that the District Registrar, Periakulam, by another order, dated 28.03.2017, has accepted Form-VII submitted by the petitioner in W.P.(MD)No.28278 of 2016 and approved of Form-VII submitted through S.V.Subramanian as the President of the College Society. This Form-VII was in respect of the college society. It is well settled now that while accepting Form-VII, the Registrar is only doing a ministerial act and therefore, the right of parties with regard to management or administration of the society is not decided by accepting or rejecting the Form-VII. If that is accepted, the petitioner in W.P.(MD)No.6541 of 2017 cannot maintain the writ petition. If he is aggrieved by the election or the administration of the college by the elected body, he is permitted to move the Civil Court. Since the suits filed by the appellants' group are pending and there is no interim order in favour of them, except preserving the right of appellants in the pending suits, no relief can be given to the appellants. Further in view of the inherent irregularities in convening Extraordinary General Body Meeting by the appellants' group and the interim order granted by civil Court in the civil suit on 28.02.2017, the impugned order of District Registrar of Societies, dated 28.03.2017, impugned in the writ petition is perfectly in order.

13.As regards the prayer in W.P.(MD)No.14399 of 2017, considering the fact that the Civil Court has already granted an interim order, there cannot be any parallel direction or order that would nullify the legal consequences of the interim order granted by the Civil Court. Hence, the writ petition in W.P.(MD)No.14399 of 2017 is liable to be dismissed. The decision of the learned Single Judge in dismissing the writ petition in W.P.(MD)Nos.6541 of 2017 and 14799 of 2018 has to be confirmed.

14.The power to interfere with the management of any private College lies with the Government under Section 14A of Tamil Nadu Private Colleges (Regulation), Act, 1956, by which the Government can suspend the management and appoint a Special Officer for a period not exceeding one year after following the procedures, if the management of any private college has neglected to discharge any of its duties. This can also be done after giving the management an opportunity and for reasons to be recorded in writing. For the same reason, the Government can also take over management of private College, in case the suspension of management is not sufficient. The power is given to Government to take over management under Section 30 of the Act after giving opportunity to the Educational Agency. Unlike, Tamil Nadu Private Schools (Regulation) Act, 1973 (Section 53 A(2)), the Government does not enjoy the power to nominate an

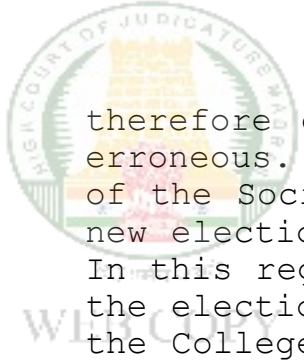


officer to discharge the functions of Educational Agency or the School Committee or the Secretary in respect of private College, till the making of an interim arrangement by the Civil Court pending dispute which is referred to Civil Court. It is not in dispute that the respondents' group was continuously in management and the appellants' group has claimed right to manage the school on the basis of a resolution passed in the Extraordinary General Body Meeting convened. It is nobody's case that the management was changed pursuant to the election conducted by the appellants' group. The impugned order refers to the recommendation of the Joint Director of Collegiate Education in favour of accepting the extension of existing Secretary for a further period of three years. However, without issuing notice to the persons in management, an order is passed on 27.10.2016 for direct management. Despite interim order granted by Civil Court earlier and thereafter, on 28.02.2017, after remand, the Director of Collegiate Education has passed subsequent orders extending the three months period for which the order, dated 27.10.2016 was issued. This Court is of the view that the order dated 27.10.2016 is without jurisdiction and in violation of principles of natural justice.

15.As regards W.A.(MD)No.124 of 2019, this Court is unable to accept any of the submissions of the learned Special Government Pleader. As pointed out earlier, the Civil Court has granted an interim order in favour of the petitioner in W.P.(MD)No.22878 of 2016. The Educational Authorities need not involve themselves in the civil proceedings that are pending before the Civil Court between the two rival factions by taking stands. The Educational Authorities cannot ignore the interim order granted by the Civil Court in favour of the petitioner in W.P.(MD)No.22878 of 2016. The Educational Authorities are actually guided by the interim arrangements by way of interim order. One of the submissions of the learned Counsel for the appellants is that the period of office pursuant to the election that was conducted in 2015 has expired and that the present office bearers cannot question the order passed by the Educational Authorities on 27.10.2016.

16.The submission of learned Special Government Pleader is too technical without merit. No notice was issued to the Secretary before extension. The right of parties has to be determined as on the date of institution of the writ petition in W.P.(MD)No.22878 of 2016 taking note of the subsequent developments. After the Civil Court granting interim order, the educational authorities ought to have recognised the respondents' group in management by withdrawing the order for direct management. An illegality cannot be cited, as a reason to deny relief, by this Court.

17.It is further submitted that the interim injunction granted by the Civil Court cannot be extended beyond the period of office pursuant to the election that was conducted in 2015, inasmuch as the interim order also have no legal force beyond the period of office, for which the election was conducted in 2015. It was



therefore contended that the order of the learned Single Judge is erroneous. It is submitted before this Court that as per the by-laws of the Society, the elected office bearers were continuing till the new election was conducted and the new office bearers were elected. In this regard, it is also brought to the notice of this Court that the election was conducted for the parent Society on 23.09.2018 and the College Society on 27.09.2018. The newly elected office bearers will hold office till 2021. Since the previous office bearers have the protection of Civil Court, the newly elected office bearers will step into the shoes of previous office bearers and can enjoy the benefit of interim order.

18.Hence, this Court find no merits in these appeals and accordingly, these writ appeals are dismissed. It is made clear that findings and observations made above are only for the purpose of disposing of these writ appeals and this will not prejudice the rights of the parties that they may flow from the decision in the suits that are pending for adjudication. The Civil Court is excepted to take independent decision on merits in all the suits uninfluenced by any of the observations or findings of this Court.

19.As a result, these writ appeals are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.O.)

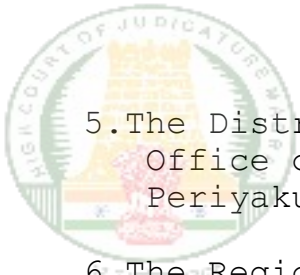
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Sub Assistant Registrar(CS )

cmr

TO:

- 1.The Secretary,State of Tamil Nadu,  
Department of Higher Education,  
Fort St.George, Chennai - 600 006.
- 2.The Director of Collegiate Education,  
College Road, Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,  
Madurai Region, Madurai,  
Madurai District - 625020.
- 4.The Inspector General of Registration,  
Chennai - 28.



5.The District Registrar (Administration),  
Office of the District Registrar,  
Periyakulam, Theni District.

6.The Regional Joint Director of Collegiate Education,  
Palam Stastion Road, Sellur, Madurai.

4CC'S TO MR. E.V.N.SIVA, ADVOCATE SR 43977  
2CC TO MR.H. THAYUMANASWAMY, ADVOCATE SR 43990, 43991  
1CC TO THE SPL GOVT PLEADER SR 44741 AND 44748.

DS  
15/04/2019  
15P:14C

W.A(MD)Nos.118 to 120 and 124 of 2019

31.01.2019