



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 12689 of 2019

and

W.M.P. (MD) Nos. 9428 to 9430 of 2019

P. Palanichamy

... Petitioner

Vs.

1. The District Registrar (Societies),
Madurai South,
Place Road,
Madurai - 1.

2. Madurai Keela Santhai Pettai,
Nadar Uravin Murai (Regn. No. 28/1964),
No. 5 Kondithozhu Vadakku Santhu,
Madurai - 9.
Rep. by its Defacto Secretary,
S. N. Shanmuganathan.

3. S. N. Shanmuganathan

4. P. M. G. Harharasudhan

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to conduct election at the second respondent Society for the period 2019 to 2022 as per the voter list prior to the date of 06.09.2009 immediately after the completion of the enquiry in the light of the order dated 27.04.2019 passed in W.P. (MD) No. 10693 of 2019 and under his direct supervision through the Advocate Commissioner / Election Officer that may be appointed by this Court in this regard within a time fixed by this Court.

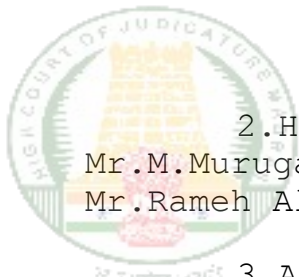
For Petitioner : Mr. C. Dhanaseelan

For Respondents : Mr. M. Murugan, G.A. for R1

Mr. Ramesh Alias Ramiah for R2 to R4

ORDER

The prayer in the Writ petition is for a Writ of Mandamus, directing the first respondent to conduct election at the second respondent / Society for the period 2019 to 2022 as per the voter list prior to 06.09.2009 immediately after the completion of the enquiry in the light of the order dated 27.04.2019 passed in W.P. (MD) No. 10693 of 2019 and under his direct supervision through the Advocate Commissioner / Election Officer that may be appointed by this Court, within a time fixed by this Court.



2. Heard Mr.C.Dhanaseelan, learned counsel for the petitioner, Mr.M.Murugan, learned Government Advocate for the respondents and Mr.Rameh Alias Ramiah, learned counsel for respondents 2 to 4.

3. According to the learned counsel for the petitioner, the present term of the office bearers of the second respondent / Society expires by the end of September 2019 and therefore, before that, election has to be conducted and that election has to be conducted based on the voter list of the year 2009 and that too after the completion of the enquiry with regard to the alleged mismanagement and malfunctioning of the Society by the present office bearers to be conducted by the first respondent as directed by this Court in its order dated 27.04.2019 made in W.P.(MD)No.10693 of 2019.

4. However, the learned counsel appearing for respondents 2 to 4 submits that, almost with the similar grounds, the petitioner approached already this Court by filing W.P.(MD)No.10693 of 2019, where this Court by order dated 27.04.2019, directed the first respondent herein, who was the first respondent in that Writ petition to conduct the enquiry on such allegation made by the petitioner and the enquiry result shall be declared within a period of 12 weeks and since the said enquiry is yet to be over and the present office bearers term also expires only in September 2019 before which, in order to conduct election, the Executive Committee of the second respondent / Society had a meeting, where they decided to appoint a committee, which shall go into the schedule of the election to be conducted as there must be an independent committee to conduct the election before the expiry of the present term. Therefore, these processes are going on. Without waiting for the same, the petitioner has approached this Court by filing this prematured Writ petition with the aforesaid prayer.

5. On the other hand, the learned Government Advocate appearing for the first respondent submits that, pursuant to the direction issued by this Court in the earlier Writ petition filed by the petitioner, on 27.04.2019, the first respondent / Registrar is taking earnest efforts to complete the enquiry within the time stipulated by this Court in the said order and in this regard, notices have to be given to both sides and after elucidating their views, a decision cumulatively would be taken. It would take some time. But at any rate, within the time stipulated by this Court in the earlier order, the said task would be completed by the first respondent and the enquiry result would be declared. Based on which, the election to the Society can go on.

6. I have considered the said submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

7. AS it has been rightly pointed out by the learned counsel for the respondents and as agreed by the learned counsel for the

petitioner, the petitioner has already approached this Court by filing W.P.(MD)No.10693 of 2019 where this Court by order dated 27.04.2019, passed the following order:

"2.This Court was originally inclined to direct the issuance of notice to respondents 4 and 5. But the learned counsel for the petitioner pointed out that the first respondent has already issued communication dated 11.01.2019 to the third respondent, calling upon him to take further action in the matter.

3.Therefore, the third respondent is directed to expedite the holding of the enquiry, ofcourse, strictly in accordance with Section 36 of the Tamil Nadu Societies Registration Act, 1975 and by putting respondents 4 and 5 on merits. The exercise shall be concluded within a period of twelve weeks from the date of receipt of a copy of this order.

4.With this direction, this Writ petition is disposed of. No costs."

8.Pursuant to the said order as submitted by the learned Government Advocate for the first respondent, the first respondent is conducting the enquiry and it will take some time. But, at any rate, before the time stipulated by this Court in the said order ie. within 12 weeks, which would be over by end of August 2019, the final order, pursuant to the enquiry, would be passed by the first respondent.

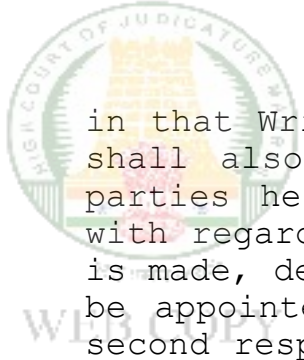
9.The grievance of the petitioner, in this regard, is that, if at all election to be conducted after the enquiry order passed by the first respondent, such election shall be conducted only based on 2009 voters list.

10.However, this stand of the petitioner is opposed by the learned counsel appearing for the respondents 2 to 4 by stating that, the election has to be conducted only based on the current voter list and in this regard, the Executive Committee decided to appoint a committee to have the schedule for the election, even the schedule would be fixed, depending upon the decision to be made by the first respondent, after completing the enquiry, as directed by this Court in the earlier Writ petition.

11.Whether election has to be conducted based on 2009 voter list or other voter list or current voter list also is one of the issue pending before the first respondent. Therefore, when decision is taken in the enquiry by the first respondent among other issues, the first respondent shall take decision cumulatively for the validity of the voter list as claimed by both sides and accordingly, a decision can be taken by the first respondent.

12.In that view of the matter, this Court is inclined to pass the following order:

That as directed by this Court in the earlier order in W.P. (MD)No.10693 of 2019 dated 27.04.2019, the first respondent shall complete the enquiry and pass final order within the time stipulated



in that Writ petition. While taking decision, the first respondent shall also take into account the claim and counter claim of the parties herein ie., the petitioner and the contesting respondents with regard to the validity of the voters list. Once such decision is made, depending upon the out come of the decision, a committee to be appointed as decided by the present Executive Committee of the second respondent / Society shall fix the schedule for election and at any rate, since the office bearers term expires in September 2019, the election shall be completed on or before 3rd week of September 2019, so that, a newly elected office bearers will be in a position to take office immediately after the expiry of the present term.

13. In view of the outer limit granted to complete the election by the 3rd week of September 2019, the decision of the enquiry, being conducted by the first respondent, shall be made on or before 20th of August 2019.

No costs. Consequently, connected W.M.Ps. are closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar (CS)

To

The District Registrar (Societies),
Madurai South,
Place Road,
Madurai - 1.

+One cc to Mr. Ramesh & Ramiah, Advocate, SR.No.71352
+One cc to Mr. C. Dhanaseelan, Advocate, SR.No.71100

W.P. (MD) No.12689 of 2019
24.06.2019

nbj
RL/18.07.2019/4P/4C