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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.4605 of 2019

and

W.M.P. (MD)Nos.3681 and 3682 of 2019

T.Udhayakumar

... Petitioner

Vs

1.The District Registrar(Societies)
Madurai South, Palace Road,
Madurai- 625 001.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

3.The Director of Technical Education,
Sardar Patel Road, Guindy,
Chennai- 600 025.

4.The Revenue Divisional Officer,
Nagercoil, Kanyakumari District.

5.G.Karikol Raj

6.A.Surendrakumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the order in Na.Ka.No.7751-1/E1/2018 dated 20.12.2018 on the file of the first respondent and the consequential order in Na.Ka.No.7751-2/E1/2018 on the file of the first respondent and quash the same and further directing the first respondent to accept the Form VII submitted by the petitioner on 22.11.2018.

For Petitioner
For R1 to R4

: Mr.G.Prabhu Rajadurai
: Mr.M.Murugan
Government Advocate

ORDER

Heard the learned counsel on either side.



2.The petitioner is aggrieved by the refusal of the first respondent to accept the Form-VII filed by him. The matter pertains to the affairs of Nadar Mahajana Sangam Kamaraj Polytechnic College Paribalansabai. It is a society registered under the provisions of Tamil Nadu Societies Registration Act, 1975. The petitioner claims that he was duly elected as a Secretary in the election held on 22.11.2018. When he approached the first respondent by filing a Form VII, the first respondent declined to accept the same. The first respondent adopted the said position because the fifth respondent herein had claimed that he was elected as a Secretary in the election held on 18.11.2018. Thus, before the first respondent rival claims have been projected.

3.This Court cannot go into the question as to whether the election was held on 18.11.2018 or 22.11.2018. These are matters which will have to be adjudicated only by the jurisdictional Civil Court. The Hon'ble Full Bench of the Madras High Court in the decision reported in **2005 (2) CTC 161** in the case of **C.M.S.Evangelical Suvi David Memorial Higher Secondary School, Karisal vs The District Registrar Cheranmahadevi, Tirunelveli District and others**, held as follows:

"18.The Power of the Registrar to enquire into the affairs of the society is only to hold a summary inquiry for his own satisfaction. The said power cannot be construed as the power of appeal. Under Section 36, the Registrar has not been empowered to adjudicate upon the conflicting claims to represent the society based upon question of fact. A plain reading of Section 36 shows that the Registrar could look only the provisions of the Act and the Rules and prima facie materials to arrive at a conclusion either to believe or not to believe Form No.VII in order to effect change in the register. The power of the Registrar to call for information and explanation under Section 34 does not contemplate any power to examine witnesses or to allow opportunity for cross examination of witnesses. The power in our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register. However, the exercise of power must not be arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the Writ jurisdiction."

4.Therefore, leaving open all the contentions of the writ petitioner, this writ petition is dismissed. The petitioner is given liberty to file a civil suit.



5. Accordingly, this writ petition is dismissed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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// True Copy //

Sub Assistant Registrar (CS)

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To

1. The District Registrar (Societies)
Madurai South, Palace Road,
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3. The Director of Technical Education,
Sardar Patel Road, Guindy,
Chennai- 600 025.
4. The Revenue Divisional Officer,
Nagercoil, Kanyakumari District.

+1CC TO MR.G.PRABHU RAJADURAI, Advocate Sr. No. 50412
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.50547

W.P. (MD) No. 4605 of 2019
and

W.M.P. (MD) Nos. 3681 and 3682 of 2019
27.02.2019

TR (19.03.2019) 3P 7C