



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.5874 of 2019 and W.M.P.(MD) No.4700 of 2019
and Cont. P.(MD) No.309 of 2019 in W.P.(MD) No.90 of 2019
and W.M.P.(MD) No.3860 of 2019 in W.P.(MD) No.90 of 2019

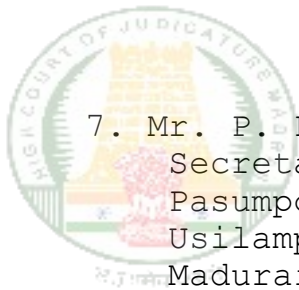
W.P.(MD) No.5874 of 2019:

S. Masanam

... Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of College Education,
Fort St. George,
Chennai - 9.
2. The Director of Collegiate Education,
O/o. The Director of College Education,
EVK Sambath Building,
College Road,
Chennai.
3. The Joint Director of Collegiate Education,
O/o. The Joint Director of College Education,
Sellur Road,
Madurai.
4. The Inspector General of Registration,
No. 100, Santhome High Road,
Chennai - 600 028.
5. The District Registrar,
O/o. The District Registrar Office,
Periyakulam,
Theni District.
6. Pasumpon Muthuramalinga Thevar College,
Rep. by its Secretary and Correspondent,
P. Pandian,
Usilampatty,
Madurai District - 625 532.



7. Mr. P. Pandian,
Secretary and Correspondent,
Pasumpon Mathuramalinga Thevar College,
Usilampatty,
Madurai District.

8. The Kallar Kalvi Kazhazam,
Regn. No. 138/1967,
Rep. by its Secretary,
Usilampatty,
Madurai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to appoint a Special Officer to the 8th Respondent Society, namely, Kallar Kalvi Kazhagam till the next Executive Committee/Board of Management assume charge for the period of next three years in accordance with bye-laws of the 8th Respondent Society and the Tamil Nadu Societies Registration Act, 1975.

For Petitioner : Mr. Ajmal Khan, Senior Counsel
for Mr. S. Vanchinathan

For Respondents 1 to 3 : Mr.A.K.Baskara Pandian,
Special Government Pleader

For Respondents 4 & 5 : Mr. M. Murugan
Government Advocate

For Respondents 6 to 8 : Mr. E.V.N. Siva

Cont. P.(MD) No.309 of 2019:

S. Masanam ... Petitioner/Petitioner

vs.

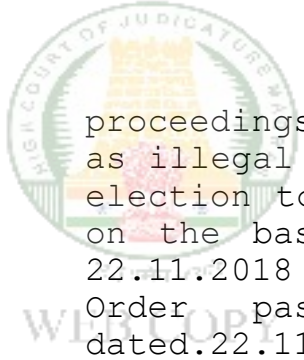
Mr. P. Pandian,
Secretary and Correspondent,
Pasumpon Mathuramalinga Thevar College,
Usilampatty,
Madurai District.

... Contemnor/Respondent

PRAYER : Petition filed under Section 11 of the Contempt of Court Act, 1971, praying to punish the Contemnor/Respondent for committing contempt of Court of his willful deliberate disobedience of the order passed by this Hon'ble Court dated 01.02.2019 in W.P.(MD) No.90 of 2019.

Prayer in WP(MD). 90/ 2019 :

<https://hcservices.ecourts.gov.in/hcservices/> 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



proceedings of the administrator dated 29.12.2018 and quash the same as illegal and consequently direct the 9th respondent to conduct the election to the 8th respondent society namely Kallar Kalvi Kazhazam on the basis of the list of members as found in FORM VI as on 22.11.2018 in the office of the 5th respondent and in terms of the Order passed by this Court in WP(MD)No.22819 of 2019 dated.22.11.2018

For Petitioner : Mr. Ajmal Khan, Senior Counsel
for Mr. S. Vanchinathan

For Respondent :Mr. E.V.N. Siva

W.M.P. (MD) No.3860 of 2019:

1. Pasumpon Muthuramalinga Thevar College,
Rep. by its Secretary and Correspondent,
P. Pandian,
Usilampatty,
Madurai District - 625 532.
2. Mr. P. Pandian,
Secretary and Correspondent,
Pasumpon Mathuramalinga Thevar College,
Usilampatty,
Madurai District.
3. The Kallar Kalvi Kazhazam,
Regn. No. 138/1967,
Rep. by its Secretary,
Usilampatty,
Madurai District. ... Petitioners/Respondents 6 to 8

vs.

1. S. Masanam ... 1 Respondent/Writ Petitioner
2. The State of Tamil Nadu,
Rep. by its Secretary,
Department of College Education,
Fort St. George,
Chennai - 9.
3. The Director of Collegiate Education,
O/o. The Director of College Education,
EVK Sambath Building,
College Road,
Chennai.



4. The Joint Director of Collegiate Education,
O/o. The Joint Director of College Education,
Sellur Road,
Madurai.

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

6. The District Registrar,
O/o. The District Registrar Office,
Periyakulam,
Theni District. ... Respondents 2 to 6/Respondents 1 to 5

7. The Hon'ble Administrator,
Rep. through the Deputy Administrator,
Kallar Kalvi Kazhagam,
Reg. No.138/1967,
Usilampatty, Madurai District. ...7th Respondent/9th Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to extend and grant 15 days time from 22.02.2019 for scrutiny of applications as per the bye-laws of Kallar Kalvi Kazhagam as per the Order of this Hon'ble Court in W.P.(MD) No.90 of 2019 dated 01.02.2019.

Prayer in WP(MD). 90/ 2019 :

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 proceedings of the administrator dated 29.12.2018 and quash the same as illegal and consequently direct the 9th respondent to conduct the election to the 8th respondent society namely Kallar Kalvi Kazhagam on the basis of the list of members as found in FORM VI as on 22.11.2018 in the office of the 5th respondent and in terms of the Order passed by this Court in WP(MD)No.22819 of 2019 dated.22.11.2018

For Petitioner : Mr. E.V.N. Siva

For 1st Respondent : Mr. Ajmal Khan, Senior Counsel
for Mr. S. Vanchinathan

For Respondents 2 to 4 : Mr.A.K.Baskara Pandian,
Special Government Pleader

For Respondents 5 & 6 : Mr. M. Murugan
Government Advocate

For 7th Respondent : Mr.V.Meenakshi Sundaram

**COMMON ORDER**

(Order of the Court was made by **S.S.SUNDAR, J.**)

By order dated 01.02.2019, in W.P.(MD) No.90 of 2019, this Court has given the following directions for the conduct of election by the Administrator, who was appointed earlier by this Court on 22.11.2018 in W.P.(MD) No.22819 of 2019:

"7. In order to resolve the issue, which has arisen after the appointment of the Administrator to conduct the election, we deem it appropriate to issue the following directions:

(i) The Administrator shall on 03.02.2019 notify in two Tamil dailies, viz., Dina Thanthi and Dina Malar, covering Madurai, Dindigul and Theni Districts, that the time for receiving applications for admission of members into the Kallar Kalvi Kazhagam for their inclusion in the voters list for the proposed election of the Managing Committee has been extended till 15.02.2019;

(ii) Any person intending to be enrolled as a member of the Kallar Kalvi Kazhagam, may make a written request in person to the Administrator at the office of the Kallar Kalvi Kazhagam, supported by his/her recognized photo identity and on satisfaction of the same, the Administrator or any person authorized by him for this purpose shall issue the application in the prescribed format to such person under written acknowledgment entered in a register maintained for the same, seriatim indicating date and time;

(iii) The payment towards fees for admission as life member shall be received only in the form of demand draft from the applicant along with the duly filled up and signed application with photograph, supported by necessary documents in proof of his qualification for membership;

(iv) The scrutiny of the applications shall be made by the existing Managing Committee and the decision to admit the members shall be taken in the manner provided in the bye-laws of the Kallar Kalvi Kazhagam and the Tamil Nadu Societies Registration Act, 1975, by 22.02.2019 and the same shall thereafter be placed before the Administrator;

(v) Any applicant aggrieved by the rejection of his/her application and any person objecting to the inclusion of a member may submit his/her representation in that regard to the Administrator, who shall examine the same and communicate the decision taken thereon by 27.02.2019;

(vi) The final list of members admitted shall be submitted by the Administrator on behalf of the Kallar Kalvi Kazhagam to the District Registrar, Periyakulam by 04.03.2019 and the District Registrar, Periyakulam shall communicate the acceptance of Form VII by 08.03.2019;



(vii) The final list of voters shall be published by the Administrator by 11.03.2019;

(viii) The process for election of members to the Managing Committee shall be carried out in accordance with the directions issued by the order dated 22.11.2018 in W.P. (MD) No. 22819 of 2019;

(ix) Since a self contained machinery has been created to decide the questions relating to the admission of members in the manner as aforesaid, we hold that no other form of legal proceedings before any Court or Forum shall be resorted to by any persons in that regard till the entire election process is completed; and

(x) No suit or other legal proceedings touching upon election to the Kallar Kalvi Kazhagam, shall henceforth be entertained by any Court other than the Principal District Court, Madurai within whose territorial limits of jurisdiction, the registered office of the Kallar Kalvi Kazhagam is situated. It is open to the Principal District Court, Madurai to assign those cases to any of the Additional District Court or Fast Track Courts in Madurai District."

2.It is stated that pursuant to the direction of this Court above referred to, the Administrator received more than 10,000 applications as permitted by this Court and the second petitioner in the petition in W.M.P.(MD) No.3860 of 2019 in W.P.(MD) No.90 of 2019 as Secretary of the Society has to scrutinize those applications. It appears that the applications received from new members up to 15.02.2019 had been handed over to the petitioners as per the direction of this Court. The petitioners, however, could not scrutinize the applications within the time prescribed by this Court.

3.It is in these circumstances, this Court has also received a report dated 09.03.2019 from the Hon'ble Administrator that despite sufficient time being granted, the Managing Committee did not furnish the list of members who are eligible. The Hon'ble Administrator has further submitted that he is not in a position to publish the list of eligible members, so that the process of calling for objection either from the members or from others regarding admissions of new members could be commenced and examined within the time stipulated by this Court in the order dated 22.02.2019. It is also seen that the final list of members should be submitted to the District Registrar for acceptance of Form VII before publishing the final list of members as stipulated by this Court.

4.In the meanwhile, another writ petition has been filed in W.P. (MD) No.5874 of 2019 for issuing a writ of mandamus, to appoint a Special Officer to the 8th Respondent Society, namely, Kallar Kalvi Kazhagam till the next Executive Committee/Board of Management assumes charge for a period of next three years in accordance with the bye-laws of the 8th Respondent Society and the Tamil Nadu



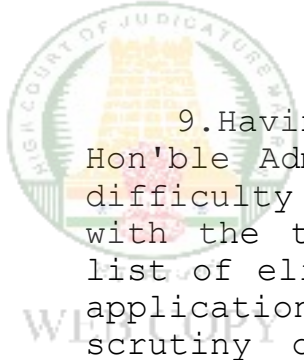
Societies Registration Act, 1975.

5.The grievance of the petitioner in W.P.(MD) No.5874 of 2019 is that the Secretary of the Society, who has been entrusted with the task of scrutinizing the application of new members has failed to scrutinize and hand over the list of eligible members within the time stipulated by this Court purposely in collusion with some people who had vested interest. However, we are not presently dealing with the allegations, as we have not given sufficient time to the respondents, who want to respond to such allegations. This Court would like to pass appropriate orders so that the earlier direction of this Court dated 01.02.2019 can be implemented without any difficulty.

6.It is also brought to the notice of this Court that there is one more claim made by one V.Vedimuthu, who has filed Special Leave Petition (Civil) Diary No.4846 of 2019 as against the order dated 01.02.2019. It is seen that the Hon'ble Supreme Court though dismissed the Special Leave Petition, granted permission to him to approach this Court with an application for review of the order on the grounds which were raised before the Hon'ble Supreme Court. It is also mentioned in the order of the Hon'ble Supreme Court that an application, if filed within 30 days for review, can be entertained without a petition to condone the delay. It is in these circumstances, the learned Senior Counsel Mr.Veera Kathiravan, who is representing Thiru.Vedimuthu has submitted that a review application has been filed and it is likely to be taken up before the Hon'ble Division Bench, which has passed the order on 01.02.2019. The learned Senior Counsel therefore, pointed out that the right of the said K.Vedimuthu, who has now filed the review and who was not heard when this Court disposed of the writ petition by order dated 01.02.2019 shall not be put in jeopardy. Though the scope of review is limited any order passed by this Court will be subject to the review, which is stated to be pending.

7.The learned counsel appearing for the Secretary, Kallar Kalvi Kazhagam has submitted that the Committee has completed the process of scrutiny of applications and covered 95% of this work. The learned counsel also submitted that the scrutiny will be over by tomorrow (14.03.2019) and that the Secretary would be in a position to handover a list of eligible members by 14.03.2019 before 5.30 p.m. The said submission is recorded. This Court is inclined to extend time.

8.The learned counsel representing the Hon'ble Administrator pointed out that the order of this Court dated 01.02.2019, particularly clause (iv) to (vii) should be appropriately modified in view of extension of time, so that the Hon'ble Administrator will be in a position to carry out the directions strictly in adherence to the order of this Court.



9. Having regard to the sequence of events and the report of the Hon'ble Administrator as to what has happened and considering the difficulty of the Secretary of Committee, who had been entrusted with the task of scrutinizing the applications and to submit the list of eligible members to the Hon'ble Administrator and the above application to extend the time by 15 days time from 22.02.2019 for scrutiny of applications as per the Bye-laws of Kallar Kalvi Kazhagam and as per the direction of this Court dated 01.02.2019, this Court is inclined to pass the following order:

(a) Time granted to the Managing Committee for scrutiny of application as per the bye-laws of Kallar Kalvi Kazhagam and as per the order of this Court dated 01.02.2019 is extended till 15.03.2019. However, it is open to the Secretary to hand over the list of eligible members even before the time stipulated by this Court.

(b) The directions, particularly, clause (iv) to (vii) in the order dated 01.02.2019 are modified to read as follows:

"(iv) The scrutiny of the applications shall be made by the existing Managing Committee and the decision to admit the members shall be taken in the manner provided in the bye-laws of the Kallar Kalvi Kazhagam and the Tamil Nadu Societies Registration Act, 1975, by 14.03.2019 and the same shall thereafter be placed before the Administrator on the next day;

(v) Any applicant aggrieved by the rejection of his/her application and any person objecting to the inclusion of a member may submit his/her representation in that regard to the Administrator, who shall examine the same and communicate the decision taken thereon by 01.04.2019;

(vi) The final list of members admitted shall be submitted by the Administrator on behalf of the Kallar Kalvi Kazhagam to the District Registrar, Periyakulam by 03.04.2019 and the District Registrar, Periyakulam shall communicate the acceptance of Form VII by 07.04.2019;

(vii) The final list of voters shall be published by the Administrator by 10.04.2019;"

10. In view of the extension of time, now granted by this Court in the application filed by the Secretary, Kallar Kalvi Kazhagam in W.M.P.(MD) No.3860 of 2019 in W.P.(MD) No.90 of 2019, Contempt Petition (MD) No.309 of 2019 is closed.

11. It is also submitted by the learned Senior Counsel for the petitioner in W.P.(MD) No.5874 of 2019 that the Secretary of the Committee has received huge funds by way of admission fees from new members and that in the interest of the Society, there may be a direction to the Secretary of the Society with regard to the



expenses he can meet, to avoid possible misuse of the money, which is now available with the Secretary (to the tune of Rs.5,00,00,000/- and odd).

12. Though this Court has not given sufficient time to the Secretary to meet the allegations made against him, without going into the merits of the allegations, this Court is inclined to give further directions, so that the interest of the Society will be well protected:

The Secretary is permitted to spend money towards the election expenses, including the amount payable to the Administrator in terms of the direction of this Court earlier and the other expenses incidental to the election of the Society. The Secretary shall not incur any other expenses on other accounts exceeding Rs.1,00,000/- (Rupees one lakh only) without the permission of the Administrator. The Secretary is also permitted to bear the expenses towards the application he has filed and for payment of fees to his counsel on record.

13. Since, the grievance of the petitioner in W.P.(MD) No.5874 of 2019 is addressed by virtue of this order, no further adjudication is necessary in this Writ Petition and the same is closed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of College Education,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Director of Collegiate Education,
O/o. The Director of College Education,
EVK Sambath Building,
College Road,
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3. The Joint Director of Collegiate Education,
O/o. The Joint Director of College Education,
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4. The Inspector General of Registration,



No. 100, Santhome High Road,
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5. The District Registrar,
O/o. The District Registrar Office,
Periyakulam,
Theni District.

6. The Administrator,
Kallar Kalvi Kazhazam,
Usilampatty,
Madurai District

+3cc to Mr.S. Vanchinathan, Advocate, SR.No.53675
+2cc to Mr.E.V.N. Siva ,Advocate, SR.No.53816
+1cc to Special Government Pleader, SR.No.53960

W.P.(MD) No.5874 of 2019 and W.M.P.(MD) No.4700 of 2019
and Cont. P.(MD) No.309 of 2019 in W.P.(MD) No.90 of 2019
and W.M.P.(MD) No.3860 of 2019 in W.P.(MD) No.90 of 2019
13.03.2019

SP/19.03.2019/10P/13C