



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.22920 of 2019

N.Muthukumar
President,
Nadu Theru Velala Perumakkal Sangam
(Regn No.65/1989)
Middle Street, Chinnamanur,
Theni District.

.. Petitioner

Vs.

The District Registrar (Admin.,)
Periyakulam,
Theni District.

... Respondent

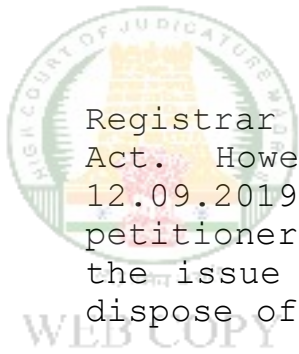
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondent to acknowledge the annual report of the society namely Nadutheru Velalar Perumakkal Sangam, Chinnamanur bearing Reg.No.65/1989 from the year 2010 by condoning the delay therein as under Section 49 of the Tamil Nadu Societies Registration Act, by disposing the petitioner's representation dated 12.9.2019.

For Petitioner	: Mr.R.Suriya Narayanan
For Respondent	: Mr.M.Murugan
	Government Advocate

ORDER

This writ petition has been filed seeking a direction to the respondent to acknowledge the annual report of the petitioner society bearing Reg.No.65/1989 from the year 2010, by condoning the delay as per Section 49 of the Tamil Nadu Societies Registration Act, 1975, based on the petitioner's representation dated 12.09.2019.

2.The petitioner is the President of Nadu Theru Velala Perumakkal Sangam, having registration No.65/1989. Due to demise of the erstwhile President, they were not in a position to file their accounts and reports to the Registrar of Societies. Since the petitioner Society failed to file their annual reports for a period of three years, the respondent, in proceedings dated 07.10.2014 in Na.Ka.No.6987/A2/2010, declared the petitioner as defunct society under Section 44 of the Tamil Nadu Societies Registration Act, 1975 [hereinafter referred to as 'the Act']. However, a publication in the Government Gazette was not effected. Therefore, the petitioner filed a condone delay petition before the Registrar for filing the annual reports with a delay. The



Registrar has powers to condone the delay as per Section 49 of the Act. However, the representation made by the petitioner on 12.09.2019 was not considered. Aggrieved over the same, the petitioner seeks a direction, directing the respondent to consider the issue of condoning the delay under Section 49 of the Act and dispose of his representation dated 12.09.2019.

3.The learned Government Advocate appearing for the respondent would submit that the District Registrar has no power to condone the delay and the petitioner has to approach the Inspector General of Registration. Therefore, the writ petition is not maintainable and the same is liable to be dismissed.

4.I have considered the rival submissions made on either side.

5.Section 44 of the Act deals with Removal of defunct registered societies. Though sub section (2) of Section 44 mandates that if the Registrar does not get an answer from the registered society that it is carrying or not carrying on business or in operation, he may publish the same in the Tamil Nadu Government Gazette and communicate the same to the registered society.

6.In the instant case, the Registrar has communicated the proceedings in Na.Ka.No.6987/A2/2010, dated 07.10.2014, declaring the petitioner as a defunct society. In such circumstances, when the default is for three or more than three years, as per sub Section (5) of Section 44 of the Act, the registered Society shall file an appeal, in case, where the name of the registered society is struck off by the Inspector General of Registration, to the Government and in other case, to the Inspector General of Registration. Sub Section (5) of Section 44 of the Act reads as follows:

"44(5)(a)if a registered society or any member or creditor thereof feels aggrieved by the name of the registered society having been struck off the register, such registered society, member or creditor may, within such period as may be prescribed from the date of publication in the Tamil Nadu Government Gazette of the notice of striking off the name of the registered society, appeal -

(i)where the name of the registered society is struck off by the Inspector-General of Registration, to the Government;

(ii)in any other case, to the Inspector-General of Registration.



(b)The Government or the Inspector-General of Registration on being satisfied that the registered society was at the time its name was struck off, carrying on business or in operation or otherwise that it is just and equitable that the name of the registered society be restored to the register, may order such restoration."

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7.The Government or the Inspector-General of Registration, on being satisfied that the registered society was carrying on business or in operation at the time of struck down, may consider the same and pass orders with regard to restoration of the name of the registered society to the register. Therefore, as submitted by the learned Government Advocate appearing for the respondent, the petitioner should have approached the Inspector General of Registration by filing an appeal to restore the registered society. Instead, he approached the District Registrar, who has no power to entertain any appeal, after declaration that the society has become defunct. Therefore, the writ petition is not maintainable against the Registrar of Societies. However, it is open to the petitioner to approach the Inspector General of Registration with a petition to condone the delay for filing the annual reports and get appropriate orders in accordance with law.

8.The writ petition is dismissed with the above observation. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

The District Registrar (Admin.,)
Periyakulam,
Theni District.

+1 CC to M/s.R.SURIYANARAYANAN, Advocate (SR-96539[F] dated 06/11/2019)

+1 CC to M/s.SPL GP (SR-96683[F] dated 07/11/2019)

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