

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
25.02.2020	27.02.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY
and
THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD) No.3807 of 2020
and
W.M.P. (MD) No.3264 of 2020

R.Thirupathi

... Petitioner

-vs-

1.The Hon'ble Administrator
Rep.through the Deputy Administrators
The Kallar Kalvi Kazhazam
Regn.No.138/1967
Usilampatti, Madurai District

2.The Kallar Kalvi Kazhazam
Regn.No.138/1967
Rep.by its Secretary
Usilampatti
Madurai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the first respondent to prepare a consultative election plan and fix election expenditure ceiling and disqualifying candidates with criminal charges framed in connection with the forthcoming election to the second respondent Management scheduled to be held on 01.03.2020 and to permit all the members of the second respondent Society to cast their franchise with alternative ID card or to provide ID card.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.M.Vallinayagam, Senior Counsel
assisted by Mr.D.Nallathambi for R1
Mr.E.V.N.Siva for R2



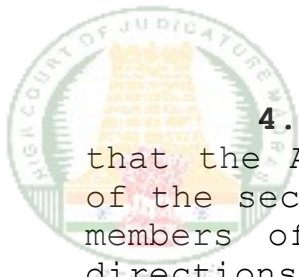
O R D E R

T.RAVINDRAN, J.

The petitioner has laid the writ petition to issue a writ of mandamus directing the first respondent to prepare a consultative election plan and fix election expenditure ceiling and to disqualify the candidates with criminal charges framed, in connection with the forthcoming election to the second respondent Management scheduled to be held on 01.03.2020 and to permit all the members of the second respondent Society to cast their franchise with alternative identity card or to provide identity card.

2. Heard Mr.M.Thirunavukkarasu, learned counsel appearing for the petitioner, Mr.M.Vallinayagam, learned Senior Counsel, assisted by Mr.D.Nallathambi, learned counsel, who takes notice for the first respondent and Mr.E.V.N.Siva, learned counsel, who takes notice for the second respondent.

3. The matter pertains to the conduct of the election to the Management Committee of the second respondent - Society. This Court, by order dated 22.11.2018 in W.P.(MD) No.22815 of 2018, had issued various guidelines / directions to the Administrator to conduct the election to the second respondent - Society by inducting new members as specified therein. Subsequent thereto, when the same had been challenged in W.P.(MD) No.90 of 2019, after inviting the views of the parties concerned and considering the same, with a view to put an end to the issues involved in the matter, this Court, by order dated 01.02.2019, deemed it fit to issue further directions to the Administrator *qua* the induction of the new members by extending the time limit till 15.02.2019 and thereupon to proceed with the conduct of the election of the second respondent - Society. Further, this Court had also directed that the new members should be inducted only in the manner as provided in the bye-laws of the Society and the Tamil Nadu Societies Registration Act, 1975. The order dated 01.02.2019 was sought to be reviewed in Review Application Nos.28 and 39 of 2019 and this Court, by order dated 12.12.2019, had dismissed the abovesaid review applications and resultantly, directed the Administrator to take further proceedings to conclude the election process as early as possible and hand over the Management of the second respondent - Society to the newly elected Executive Committee. Further, in the review application, this Court, by order dated 18.10.2019, had also directed that the new Administrator would proceed with the matter from the stage where the earlier Administrator had concluded.



4. In the light of the abovesaid developments, it is found that the Administrator appointed for the conduct of the election of the second respondent - Society had proceeded to induct the new members of the second respondent - Society by adhering to the directions given to him as above stated and accordingly, the Administrator had finally come to issue the election notification fixing the date of election as 01.03.2020.

5. The primary grievance of the petitioner is that all the members of the second respondent - Society had not been issued with the identity cards and in such view of the matter, it is put forth that the members, who had not been provided with the identity cards or who had not received the same, would be prevented from casting their franchise in the election and therefore, sought a direction to the Administrator, namely, the first respondent to ensure that all the members of the second respondent - Society are provided with identity cards and cast their franchise in the forthcoming election. However, considering the election notification issued by the Administrator and the revised election notification and further as could be seen from the submissions put forth by the learned Senior Counsel appearing for the first respondent / Administrator, it is seen that the identity cards had already been issued to the members and further, safeguards have also been taken by the Administrator by calling upon the members to collect the identity cards, in the event of they not receiving the same, from the College campus between 24.02.2020 and 26.02.2020 and therefore, when it is found that the Administrator had ensured that the members inducted had been provided with the identity cards and also further directed that the members, who had not received the same, could come and collect the identity cards from the College campus as put forth in the revised election notification, dated 20.02.2020, in such view of the matter, the case of the petitioner that most of the members had not been provided with the identify cards, thereby, they are being prevented from exercising their franchise in the forthcoming election, as such, cannot be countenanced. When the claim of the petitioner that nearly 4000 members had not been provided with the identity cards is not borne out by any material worth acceptance and when it could be gathered from the submissions of the learned Senior Counsel appearing for the first respondent that the identity cards had already been issued to almost all the members barring a few and they had also been directed to collect the identity cards from the College campus between 24.02.2020 and 26.02.2020, in the light of the abovesaid position, it is seen that due steps and care have been taken by the first respondent / Administrator in checking and arranging that all the members of the second respondent - Society would be able to exercise their franchise in the forthcoming election.



6. Similarly, the contention putforth by the petitioner's counsel that the candidates, who are contesting the election, are permitted to take only one agent provided that they have the requisite identity cards and when the same is also given due consideration by the first respondent / Administrator in the revised election notification ensuring that the agents of the candidates could also collect the identity cards from the College campus as specified in the revised election notification, to say that the first respondent / Administrator has not proceeded with the conduct of the free and fair election enabling all the members to cast their vote, as such, cannot be countenanced in any manner.

7. Insofar as the contention of the petitioner that the first respondent / Administrator should ensure in disqualifying the candidates with criminal charges in the forthcoming election, when the Administrator had already been directed in the earlier proceedings to conduct the election in accordance with the bye-laws of the Society and the Tamil Nadu Societies Registration Act, 1975 and when with reference to the abovesaid contention, no valid material has been projected by the petitioner to hold that the Administrator is endeavouring to conduct the election against the bye-laws of the second respondent - Society or attempting to conduct an unfair election, in all, we do not find any valid ground to countenance the reasons projected by the petitioner for stalling the election of the second respondent - Society scheduled to be held on 01.03.2020.

8. In the light of the abovesaid reasons, we do not find any valid ground to grant any relief to the petitioner in the writ petition. Resultantly, the writ petition fails and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

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/ /2020

Sub Assistant Registrar(CS)

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+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-8718[F]

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-8958[F]

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SS(CO)

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