



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12243 of 2020

and W.M.P. (MD)Nos.10500, 10502 & 10504 of 2020

WEB COPY

M.S.Karunai Prakash

... Petitioner

Vs.

1.The Transport Commissioner/Principal Secretary,
Chepauk, Chennai.

2.Sureshbabu,
Officiating President,
Tamil Nadu Transport Department Staff Association,
14/1, Theradi Street, Triplicane,
Chennai-5.

3.The Chief Returning Officer,
Election for State Officer Bearers Election 2020
for the Tamil Nadu Transport Department Staff Association,
Election Officer, O/o.Joint Transport Commissioner,
Coimbatore.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent vide Na.Ka.No.48656/RA/19, dated 17.09.2020 and quash the same as illegal as devoid of merits and further direct the first respondent to appoint Chief Returning Officer to conduct Election for State Office bearers of Tamil Nadu Transport Department Staff Association 2020.

For Petitioner : Mr.Raja Karthikeyan
For R1 : Mr.K.Chellapandiyan,
Additional Advocate General,
Assisted by
Mr.P.Mahendran, Government Advocate

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Government Advocate appearing for the first respondent.

2.The writ petitioner is working as Superintendent of Transport Department in the office of Regional Transport Office,
<https://hcservices.mca.gov.in/Despatch>



Virudhunagar. He is a member of the Tamil Nadu Transport Department Staff Association. As per the bylaws, the Office Bearers have to be elected once in two years. The specific allegation of the writ petitioner is that the term of the elected Office Bearers ended on 03.07.2017. But without taking steps to hold fresh election, the second respondent herein is said to have been continuing in Office. Therefore, complaints were made before the first respondent.

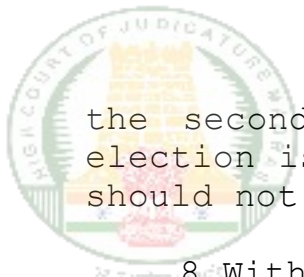
3.The first respondent vide communication, dated 03.08.2020 addressed to the second respondent, directed him to conduct election to elect new set of Office Bearers. It is stated that one Selvaraj was appointed as Chief Returning Officer and that he issued the election schedule on 12.09.2020. This appears to have been the subject matter of complaint before the first respondent. The first respondent appointed one Sri Gopinath as the Chief Returning Officer vide communication, dated 15.09.2020. Thereafter, the said communication was withdrawn, on 17.09.2020. This is under challenge in this writ petition.

4.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. His basic contention is that the second respondent Association is a service Association and it has its own set of bylaws. According to him, the proposed election is sought to be held in total violation of the bylaws.

5.The allegations of the petitioner may be true. The question that arises before me is whether the first respondent, namely Transport Commissioner, Chepauk, Chennai is having legal authority to appoint the Chief Returning Officer for conducting elections of the second respondent Association. I called upon the petitioner's counsel to draw my attention to any particular statutory provision or even provision in their bylaws. No such provision has been shown to me.

6.The learned Additional Advocate General appearing for the first respondent states that the first respondent had initially intervened in the matter more as a measure of goodwill and when his authority was specifically questioned, he has chosen to take back his earlier communication.

7.Since the first respondent has not been shown to have been vested with any legal authority to appoint Chief Returning Officer for holding elections of the second respondent Association, I cannot grant any relief in this writ petition. This writ petition is dismissed. However, I make it clear that the rights of the writ petitioner are left open. The dismissal of this writ petition will not mean that this Court has approved the action of



the second respondent herein. However I must observe that if election is not being held as per the bylaws, the first respondent should not hesitate to withdraw the recognition earlier accorded.

8. With this observation, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Transport Commissioner/Principal Secretary,
Chepauk, Chennai.

+1 CC to SGP (SR-17747[F] dated 22/09/2020)

W.P. (MD) No.12243 of 2020
18.09.2020

SR (CO)
KM (06.10.2020) 3P 3C