



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.14096 of 2020

and W.M.P. (MD).No.11755 of 2020

WEB COPY

Thuthukudi Nadargal Mahamai,
(Reg No.27/1960)
Rep. through its Secretary,
P.Chandrasekar

... Petitioner

Vs.

1.The District Registrar (Societies),
New Bus Stand Backside,
Polapettai West,
Thoothukudi.

2.The Tuticorin Education Society,
Rep. through its Secretary,
488/1, Kamaraj College Building,
Thoothukudi.

3.P.S.P.K.J.Somu @ Somasundaram,
Deputy Secretary,
Tuticorin Education Society.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the first respondent herein to consider the representation dated 04.09.2020 and 11.09.2020 and pass appropriate orders in the issue of nominating 3rd respondent herein as Secretary of the 2nd respondent society in violation of the bye law of 2nd respondent society (without election) and take action within a time stipulated by this Court.

For Petitioner : Mr.V.Meenakshi Sundaram

For Respondents : Mr.K.Sathiya Singh for R1
Additional Government Pleader
Mr.T.Antony Arulraj for R2 & R3

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the first respondent to consider the representations dated 04.09.2020 and 11.09.2020 and pass appropriate orders in the issue of nominating 3rd respondent herein as Secretary of the 2nd respondent society in violation of the bye law of 2nd respondent society (without election) and take action within a time stipulated



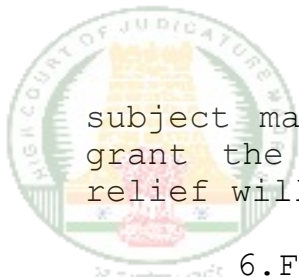
by this Court.

2.The only grievance of the petitioner as found in the affidavit filed in support of the writ petition is that the bye laws of the second respondent society does not enable the third respondent to become a Secretary for a period of more than one month. According to the bye laws 12 and 13, the third respondent who was the Deputy Secretary of the second respondent society can take charge as a Secretary of the second respondent society, subsequent to the death of the erstwhile Secretary only for a period of one month. It is also the contention of the petitioner that without any General Body resolution, arbitrarily and illegally, the second respondent has taken charge as a Secretary of the second respondent society, which has also be recognized by the first respondent. Therefore, the petitioner gave a representation on 04.09.2020 to the first respondent intimating him that the third respondent cannot act as a Secretary of the second respondent society and the Form VII submitted by the third respondent should not also been processed by the first respondent. According to the petitioner, the said representation has not been considered by the first respondent till date. It is further stated in the affidavit that a reminder was also sent by the petitioner on 11.09.2020. In such circumstances, this writ petition has been filed.

3.Heard Mr.V.Meenakshi Sundaram, learned counsel for the petitioner. Mr.K.Sathiya Singh, learned Additional Government Pleader, accepts notice on behalf of the first respondent and Mr.T.Antony Arulraj, learned counsel accepts notice on behalf of the respondents 2 and 3.

4.It is contended by the learned counsel appearing for the second and third respondents that the third respondent has assumed charge of the Secretary of the second respondent society only in accordance with the bye laws and in accordance with law. According to him, the first respondent having accepted Form VII, the only remedy available to the petitioner is to approach a Civil Court.

5.This Court has perused and examined the records placed before this Court and after hearing the submissions of the respective counsels, is of the considered opinion that no prejudice will be caused to the respondents, if the representation dated 04.09.2020 submitted by the petitioner is considered by the first respondent on merits and in accordance with law. In the representation, the petitioner alleges that the third respondent has assumed charge as Secretary of the second respondent society without any authority and without any election. It is also contended that the third respondent if at all can hold charge as Secretary, subsequent to the death of the erstwhile Secretary Rajendran, only for a period of one month and no more. All these factors will have to be considered by the first respondent, pursuant to the representation dated 04.09.2020 given by the petitioner which is the



subject matter of this writ petition. This Court is inclined to grant the relief sought for by the writ petitioner as the said relief will not prejudice any of the parties to this writ petition.

6.For the foregoing reasons, this Court directs the first respondent to consider the representation of the petitioner dated 04.09.2020 and pass final orders on merits and in accordance with law, after giving due consideration to the bye laws of the second respondent society as well as the Full Bench Judgment of this Court in W.A.Nos.2969 of 2001, 331 of 2002, 170 and 217 of 2004 dated 24.03.2005, reported in 2005 (2) CTC 161 within a period of eight weeks from the date of the receipt of a copy of this order, after giving sufficient opportunity to the petitioner as well as the second and third respondents.

7.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

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

1.The District Registrar (Societies),
New Bus Stand Backside, Polapettai West,
Thoothukudi.

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-19662[F] dated 09/10/2020)

+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-19704[F] dated 12/10/2020)

+1 CC to M/s.GP (SR-19758[F] dated 12/10/2020)

W.P (MD) .No.14096 of 2020
09.10.2020

KG (CO)

AP(19/10/2020) 3P 5C