



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Special Original Jurisdiction

Monday, the Thirteenth day of September Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

WP(MD)No.17444 of 2019

and

WMP(MD)Nos.8397 and 10457 of 2020

Indira Gandhi College For Woman Committee,
Rep. by its Secretary G.Mohan,
No.A5, Pasumpon Street,
Thirunagar, Madurai.

... Petitioner

Vs

1.The Registrar of Societies,
Madurai South,
Palace Road, Madurai.

2.P.Gopichandra Mohana,
3.Chandurvelan Vadivelu
4.Thangaraj

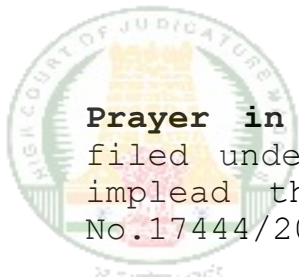
5.K.Jeyakumar

... Respondents

(R5 is impleaded vide Court
Order dt.23.09.2020 in
WMP(MD)No.10370/2020 in
WP(MD)No.17444/2019 by SSSRJ)

Prayer in WP(MD)No.17444 of 2019 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.2397/E1/2019, dt.01.7.2019 quash the same.

Prayer in WMP(MD)No.8397 of 2020:- Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, Pleaded to modify the order dated 26.2.2020 in WP(MD)No.17444 of 2019 by directing the officer of court to conduct election of office bearers of the society, (i.e) Managing Committee (Indira Gandhi College for Women Committee) within a time frame as may be specified by this Honourable Court.



Prayer in WMP(MD). 10457 of 2020 :- Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, pleaded to implead the petitioners herein as party respondents in WP(MD). No.17444/2019.

ORDER:- This Writ Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and the earlier order of this Court and upon hearing the arguments of M/s.J.Anandhavalli, Advocate for the Petitioner and of M/s.B.Saravanan, Advocate for the for Petitioners in WMP(MD)No.8397 of 2020, M/s.N.Dilip Kumar, Advocate for the Petitioners in WMP(MD) No.10457 of 2020, this Court made the following order:-

This Writ Petition is filed by a Society represented by its Secretary, by name, G.Mohan, challenging the order of the first respondent accepting Form-VII submitted by the respondents 2 to 4.

2.The petitioner is a registered Society under Tamil Nadu Societies Registration Act, 1975. It is admitted that the Society has established a Higher Secondary School and that, as on date, about 1700 students are studying in the School. It is stated by the petitioner that the Society is administered by a Managing Committee and that there are 14 members in the Society. The members of Managing Committee are elected by the General Body. The period of office of Managing Committee is three years as per bye-laws. The petitioner Society is running the School in the name of "Indira Gandhi Memorial Matric Higher Secondary School" at Thirunagar, Madurai District.

3.There was some dispute between the petitioner and other members. The rival group convened the General Body and conducted an election on 16.03.2019. The Registrar of Society after an enquiry, by the impugned order, has upheld the election conducted on 16.03.2019 by the rival group. The acceptance of Form-VII is challenged in the above Writ Petition.

4.This Court, by order, dated 26.02.2020, appointed an Officer of Court for the purpose of conducting election of office bearers, ie., Managing Committee. The relevant portion of the said order reads as under:

5.Both side Counsels suggested the name of Senior Counsel Mr.Vallinayagam, to be appointed as an Officer of this Court to conduct the election. Though the petitioner has stated in his affidavit that there are only 14 members available as on date as members, learned Counsel for petitioner has now stated that the members, who are shown as members of the Society as per Form-VI, should be allowed to participate in the election. However, learned Senior Counsel appearing for contesting respondents submitted that few members had left the Society or



abandoned and they did not participate in any affairs for several years. This Court has already indicated that this Court wants to pass a consent order, so as to put an end to all litigations. It is in the said context, this Court suggested that the membership list as available with the District Registrar should be construed as the genuine and authenticated list of members, who are entitled to participate in the election. Considering the submissions of Counsel on either sides, this Court is inclined to pass the following order:

"1) Mr. M. Vallinayagam, learned Senior Counsel is appointed as Officer of this Court for the purpose of conducting election of Office Bearers of the Society, ie., Managing Committee (Indira Gandhi College for Women Committee).

2) The Officer of the Court appointed shall permit only those members, whose name is found in Form-VI as on the date of writ petition for the purpose of election.

3) The Officer of the Court appointed by this Court shall collect particulars of Form-VI with all the members from the District Registrar and treat that as a voter list for the purpose of election.

4) The Officer of the Court is directed to issue notice to all the members and then to convene General Body Meeting giving 21 days from the date of receipt of the copy of this order.

5) The Officer of the Court can get assistance of staff of the School and one Advocate of his choice to conduct the election. The remuneration of the advocate engaged by the Officer of Court can be fixed by the Officer of Court and shall be met by the Society.

6) The date and place of election shall be announced by the Officer of the Court giving 21 days time.

7) Based on the outcome of the election, the Officer of the Court can submit Form-VII and the details of election before the District Registrar.

8) The election shall be conducted within two months from the date of receipt of copy of this order.

9) The Officer of the Court shall file report before this Court on or before 03.06.2020.

6. The petitioner has fairly conceded to withdraw the two suits stated to have been filed by him. If the Officer of the Court or any of the party realised that this order has been passed ignoring some factors, which would materially affect the election process, it is open to them to seek clarification, so that the election will be conducted in a fair manner.



7. The learned Senior Counsel for the contesting respondents urged that the election should be conducted immediately. The Officer of the Court appointed by this Court is empowered to deal with all the issues regarding conduct of election and the manner of election giving due regard to the bye-laws. It is also open to the Officer of the Court to open a separate account, so that the entire money collected from the students towards tuition fee and other fee, can be deposited in that account. Neither the petitioner nor the contesting respondents or their men has any right to deal with the account or receive cash from the students. Since the contesting respondents have raised some issues relating to accounts, the same also can be entertained by the Officer of the Court and can decide all issues including the money payable to the petitioner by the Society for disbursement of salary or spent towards legitimate expenses.

5. The learned Senior Counsel, Mr. Vallinayagam, who was appointed as Officer of Court, filed an interim report and additional interim report pointing out several difficulties, he faced. In his interim report, dated 28.05.2020, the learned Senior Counsel, the Officer of Court, prayed for further time to complete the election process. Again, in his additional interim report, dated 03.08.2020, the learned Senior Counsel, the Officer of Court, prayed for necessary orders, guidance and directions for complying with the earlier direction of this Court. Third report was also submitted by the learned Senior Counsel, Officer of Court, and sought for suitable orders regarding some issues pertaining to the administration of the Society and the School run by the Society. After considering the same, this Court passed an order on 30.09.2020, and found that the issue really is about the membership list of the Society. In other words, the dispute among the parties is with regard to the number of members, who are eligible to cast their vote and contest in the election.

6. Since several issues have been raised pertaining to the membership list by the parties, this Court suggested the learned Counsel for the petitioner to find out whether there is a possibility to get consensus from all the members of the Society about the eligible members of the Society, who are entitled to cast their vote. Hence, this Court directed the parties to find out whether the parties can agree for certain terms for smooth election. Pursuant to this order, the petitioner, Mr. G. Mohan, filed an affidavit, dated 21.07.2021, stating that two of the members died and 15 members of the Society are available for the purpose of conducting election.



7.A joint compromise memo, dated 24.06.2021 was also filed by the learned Counsel for the petitioner and the learned Counsel for respondents 2 to 4 indicating that only 17 members, who are found in the list, are eligible to participate in the election. Though the list found in the joint compromise memo contains the names of 17 members, it is now admitted by both parties that only 15 members, as stated in the affidavit filed by Mr.G.Mohan, are alive and they can be considered as members of the Society. The learned Counsel for the petitioner and the learned Counsel for the respondents 2 to 4 have agreed that this Court can pass appropriate directions to the Officer of Court to conduct election for the petitioner Society.

8.Thereafter, a subsequent memo was filed by the learned Counsel for the petitioner and the learned Counsel for the respondents 2 to 4 to the effect that one of the members, by name, C.Natarajan, has tendered his resignation by a letter, dated 17.07.2021. However, it is not known that the resignation was accepted by anyone, who is competent to remove the name of C.Natarajan, from Form-VII. Hence, this Court is of the view that all the 15 members should be recognised, as members of the Society for the purpose of exercising their franchise and participate in the election process to elect the committee in tune with bye-laws of the Society.

9.At the request of this Court, the learned Counsel for the petitioner as well as the learned Counsel for the respondents 2 to 4 filed a joint memo along with individual affidavits from all the 14 members of the Society. The parties have now agreed that the election can be conducted by the Officer of Court with the participation of 15 members, who are found in the Rolls of the Society as they are held eligible to contest or participate in the election. Since there is a consensus, this Court is of the view that no further directions are required with regard to the eligibility of members to contest or participate in the election as directed by this Court earlier. Hence, this Court is pleased to issue the following direction to the Officer of the Court for the purpose of conducting election:

(1)The Officer of Court shall cause issuance of notice to convene Annual General Body meeting to the members for conducting election after giving 21 days prior notice. Such notice shall be sent to the members either by post or local delivery or by publication through press. The notice shall also be displayed in the notice board of the Society. It is to be noted that as per the bye-laws of the Society, 50% of the eligible members have to participate to constitute quorum.

(2)The persons, whose names are found in the joint compromise memo filed by the learned Counsel for the petitioner as well as the learned Counsel for the respondents 2 to 4, should



(3) The Officer of Court shall allow only the members, who are found in the voters list, in the venue of election.

(4) The Officer of Court shall obtain signature from all the members, who are present at the time of election.

(5) The Officer of Court shall fix the venue and schedule of election, which includes:

- (a) date of issuance of nomination;
- (b) last date of filing of nomination;
- (c) time for scrutiny of nomination;
- (d) time for withdrawal of nomination and declaration of list of eligible voters;
- (e) conducting of election by secret ballot;
- (f) counting of votes; and
- (g) declaration of list of elected office bearers and their taking charge of office;

(6) The election shall be conducted in the premises of the School run by the Society.

(7) The Officer of Court shall engage enough numbers of persons for the smooth conduct of the election.

(8) The Officer of Court shall give instructions to the members to participate in the election, so as to ensure the conduct of free and fair election.

(9) The election shall be conducted on or before 31.10.2021.

(10) It is open to the Officer of Court to approach this Court for any further clarification, which may be useful for him for a fair and free election.

(11) The Officer of Court shall follow the provisions of bye-laws of the Society with regard to the manner, in which the election should be conducted as far as possible.

10. Since the learned Senior Counsel, the Officer of Court, is not available today, his remuneration is not yet decided by this Court. It is open to the Officer of the Court to seek appropriate orders with regard to the remuneration or other expenses. For the present, the Officer of Court is permitted to utilise the funds of Society for the conduct of election.

11. The Officer of Court shall submit a report after conducting election on or before 10th of November 2021.

12. Post the matter on 10.11.2021.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



TO

1.The Registrar of Soceities,
Madurai South Palace Road Madurai

2.Mr.M.Vallinayagam,
Senior Counsel,
Plot No.677, 8th Stret, Karpaga Nagar,
K.Pudur, Madurai-07.cell. 9443117885

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC to M/s.J.Anandhavalli, Advocate, SR.No.29012

+ 1 CC to M/s.B.Saravanan, Advocate, SR.No.28978

ORDER DATED : 13/09/2021

Hearing date : 10.11.2021

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ORDER

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WP (MD) .No.17444 of 2019

and

WMP (MD) Nos.8397 & 10457 of 2020

Giving direction and etc.
as stated within.

KS (CO)

TR/skn(23.09.2021) 7P 6C