



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.103 of 2021

and

W.M.P. (MD)No.104 of 2021

WEB COPY

Hajee K.K.Ibrahim Ali Higher Secondary School Society,
Rep. by its Secretary,
K.Mohammed Ibrahimsha Johny,
Pudur, Ilaiyankudi ,
Sivagangai District. ... Petitioner

Vs.

- 1.The Inspector General of Registration,
O/o.Inspector General of Registration,
No:100, Santhome High Road,
Chennai.
- 2.The District Registrar,
Registrar of Societies,
District Registrar Office,
Sivagangai, Sivagangai District.
- 3.The District Educational Officer,
District Educational Office,
Sivagangai. ... Respondents

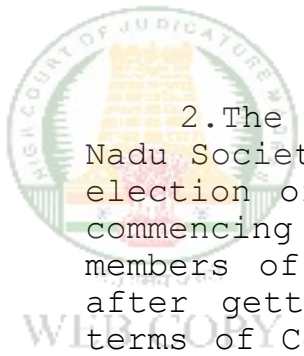
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd respondent vide his proceedings in Na.Ka.No.2722/A2/2020 dated 21.12.2020 and quash the same as illegal and to direct the 2nd respondent to take it on file of the Form VII dated 22.10.2020 submitted by the petitioner's Society.

For Petitioner : Mr.S.Parthasarathy
For Mr.Malaiyendran.V

For Respondent : Mr.K.Sathiyasingh,
Additional Govt. Pleader for R1 & R2.
Ms.J.Lakshmi Prasanna,
Government Advocate for R3.

ORDER

Heard the learned counsel on either side.



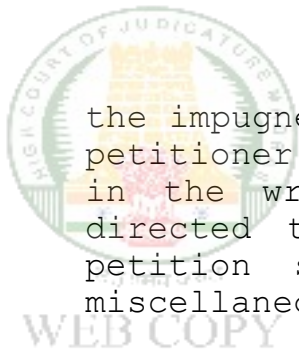
2.The writ petitioner is a Society registered under the Tamil Nadu Society Registration Act, 1975. The subject matter pertains to election of the Executive Committee of the Society for the period commencing from 01.02.2021 to 31.12.2023. The Society has 355 members of its roles. The Society held the election on 17.10.2020 after getting permission from the District Administration and in terms of Covid restrictions. 208 members took part in the general body meeting. The members of the Executive Committee were elected unanimously. Thereafter, Form VII was presented for being filed before the second respondent herein. The second respondent by the impugned dated 21.12.2020 declined to accept the Form VII. That necessitated the present challenge.

3.The learned counsel for the writ petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition.

4.The prayer in the writ petition is opposed by the learned Special Government Pleader for the first and second respondents. The second respondent, who passed the impugned order has also filed a counter affidavit.

5.The Educational Department has also filed independently counter affidavit setting out its stand.

6.The second respondent has assigned two reasons for declining to file the Form VII presented by the writ petitioner. The first reason is that W.P.(MD)No.11514 of 2018 and W.P.(MD)No.9044 of 2018 are still pending. As rightly pointed out by the learned counsel for the petitioner, these writ petitions pertain to tenure of the previous Executive Committee. Virtually, those writ petitions have become infructuous and their pendency cannot be put as ground for refusing to take the present Form VII on file. The other reason is predicated on the Circular No.7 of 2011, dated 27.07.2011 issued by Inspector General of Registration. The effect of the said circular is that Form VII will not be taken on file unless the returns for the preceding year have already been filed. This circular was considered by a learned Judge of this Court in the decision reported in **(2016) 6 MLJ 568 (Kallar Kalvi Kalazhagam Vs. The District Registrar (Admn.) Periyakulam and Others)**. The learned Judge had held that no circular of the Inspector General of Registration can override the ingredients of statute. The filing of Form VII could be refused to be taken on file only for the reasons set out in the statute. Respectfully following the said decision, I hold that reliance placed on the said circular is misplaced. More than anything else, when the general body of the registered society was convened as per law and the said general body has unanimously elected the members of the Executive Committee and there is no controversy or challenge to the election, it is the duty of the registering authority to accept Form VII. The reasons set out in



the impugned order for not filing the Form VII presented by the writ petitioner's society are patently unsustainable. The order impugned in the writ petition is set aside. The second respondent is directed to accept the Form VII and file the same. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Inspector General of Registration,
O/o.Inspector General of Registration,
No:100, Santhome High Road,
Chennai.

2.The District Registrar,
Registrar of Societies,
District Registrar Office,
Sivagangai,
Sivagangai District.

3.The District Educational Officer,
District Educational Office,
Sivagangai.

+1 CC to Mr.V.MALAIYENDRAN, Advocate (SR-3876[F] dated 09/02/2021)

+1 CC to SPL GP (SR-4284[F] dated 10/02/2021)

W.P(MD)No.103 of 2021
08.02.2021

VB (26.02.2021) 3P 6C