



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM :

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

**AND**

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.A.(MD) No.788 of 2021

and

CMP(MD).No.3562 of 2021

1. 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.

... Appellants/Respondents

Vs

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

... Respondent/Writ Petitioner

2. K.Najeemudeen,  
108A, Soukath Ali Street,  
Pudur, Ilayankudi,  
Sivagangai District.

... Intervenor

(\*)R2 Intervenor is permitted to interven vide order dated 15/04/21 made in WA(MD)No.788 of 2021 and CMP(MD)No.3562 of 2021.

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 08.02.2021, passed in W.P.(MD) No.103 of 2021.

Prayer in WP(MD). 103/ 2021 :

Writ Petition is 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 society.

For Appellants : Mr.K.Sathiya Singh  
Additional Government Pleader  
For Respondent : Mr.G.Prabhu Rajadurai,  
for M/s.D.Senthil,  
for first Respondent  
Mr.J.John for intervenor

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

This appeal filed by the Inspector General of Registration and another is directed against the order dated 08.02.2021, passed in W.P(MD).No.103 of 2021, filed by the first respondent herein, whereby, the department is aggrieved by the direction issued by the learned Writ Court, allowing the writ petition and directing the second appellant to take on file the Form-VII, dated 22.10.2020, submitted by the first respondent-Society.

2. We have heard Mr.K.Sathiya singh, learned Additional Government Pleader appearing for the appellants, Mr.G.Prabhu Rajadurai, learned Counsel appearing for the first respondent-writ petitioner, and also Mr.J.John, learned Counsel appearing for the intervenor, who is also a rival contender and it appears that the intervenor has also filed a Writ Appeal against the impugned order before us.

3. With the consent of the either side, this writ petition is taken up for final disposal.

4. The learned Writ Court had allowed the writ petition on the ground that there is no legal dispute between the rival contenders, namely, the first respondent herein and the intervenor Mr. K.Najeemudeen and that the first respondent-writ petitioner had been elected unanimously in the General Body stated to have been conducted on 17.10.2020, in which, 208 members are stated to have participated. The Form-VII declaration was filed by the first respondent which was not entertained and consequently, the writ petition was filed.

5. The learned Counsel appearing for the first respondent would contend that the reason for not taking on file the Form-VII declaration filed by the first respondent is by referring to two earlier writ petitions, one filed by the first respondent and one



filed by the intervenor, which was for the earlier period i.e., 2018 - 2020 and would have no relevance for the current period.

6. However, the learned Counsel appearing for the intervenor would submit that the intervenor has been validly elected in the General Body conducted on 17.10.2020 and Form-VII declaration has been filed by them on 24.12.2020 and since, there were two Form-VII declarations filed, one at the instance of the first respondent herein and one at the instance of the intervenor herein, the District Registrar has called for explanation from both the parties. It appears that the intervenor has given explanation on 15.02.2021. At this stage, we deem it appropriate to remind the second appellant about his duty as a District Registrar while scrutinizing a Form-VII declaration filed under the provisions of the Tamil Nadu Society Registration Act. His role has been clearly explained in the decision of the Hon'ble Division Bench in the case of **R.Muralidharan v. The District Registrar & Others**, reported in 2008 (2) LW 75. The operative portion of the judgment reads as follows:

"20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of Sub-section (9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence the power of the Registrar to issue such direction under Sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only resort to the power under Section 37 to cancel the registration. Hence, the power under Sub-section (9) of Section 36 cannot be stretched to a power on the Registrar to direct the registered society to hold fresh election. A direction to hold fresh



election would amount to indirectly setting aside the earlier election and such power is not conferred on the Registrar under any of the provisions of the Act. So long as the election is not declared invalid in the manner known to law, no direction for fresh election could be ordered. Validity of the election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the Civil Court for appropriate orders and thereafter shall act as per the orders of the Civil Court. Accordingly, the issue is answered.

25. Applying the above test, it can be safely concluded that the acceptance of forms and returns filed by the registered societies, is nothing but ministerial in nature. This conclusion is inevitable on account of the fact that no element of discretion is conferred upon the Registrar under the Act, while accepting any of the forms/returns.

33. In any event, the filing of Form No. VII is only a consequential action to an election purportedly conducted. The acceptance of such a Form by the Registrar would neither affix a seal of approval on the validity of the election nor would the rejection of Form No. VII by the Registrar, invalidate an election properly conducted. Therefore, a person, who is aggrieved by an election, should only go before a Civil Court challenging the election. A person aggrieved by an election cannot challenge the acceptance or rejection of Form No. VII by the Registrar as a short cut to invalidate an election. This is why the Full Bench of this Court, in *C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee v. The District Registrar, Cheranmahadevi and four Ors.* 2005-2- L.W. 550, held that the power under Section 34 is only incidental and that it was only for the purpose of maintaining correct records. Paragraph No. 18 of the Judgement of the Full Bench reads as follows:





the intervenor shall place all the papers and their representations before the second appellant. Accordingly, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

pkn

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. 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.

+1 CC to M/s.J.JOHN, Advocate ( SR-15925[F] dated 16/04/2021 )

+1 CC to M/s.D.SENTHIL, Advocate ( SR-15927[F] dated 16/04/2021 )

+1CC TO M/S.SPECIAL GOVERNMENT PLEADER, SR NO.15978

W.A. (MD) No.788 of 2021  
15.04.2021

KK(18.05.2021) 6P 6C