



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2021

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

**W.P. (MD) No.9988 of 2021
and W.M.P. (MD) Nos.7700, 7704 and 7706 of 2021**

P.N.Vairamani

... Petitioner

Vs.

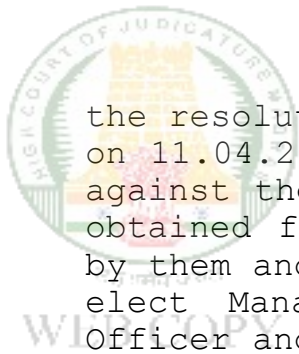
1.The District Registrar (Societies),
Periyakulam Registration District,
Periyakulam,
Theni District.

- 2.R.Gopal
- 3.P.M.S.N.M.Ravichandran
- 4.A.D.Selvakumar
- 5.K.T.Manoharan
- 6.M.P.R.Palaniappan
- 7.P.Balamurali
- 8.P.M.S.N.M.Rajesh
- 9.G.R.Dhayanithi
- 10.A.Periyasamy Nadar
- 11.J.Mathiyalagan
- 12.C.Selvakumar
- 13.R.Anandhraj
- 14.M.P.M.PaliniSelvam
- 15.K.R.Natesan
- 16.S.R.K.S.Kalidoss
- 17.K.Karthickraja
- 18.M.Muthuveer
- 19.A.Balamurugan
- 20.P.Dhuneshkumar
- 21.Sivakumar
- 22.C.Nagaiah
- 23.J.Ayyappan
- 24.P.Natchimuthu
- 25.Poomalai Rajkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, forbearing the First Respondent herein from anyway accepting Form-VII and appointing the Respondents 2 to 25 as the Managing Committee of the Bodinayakkanur Nadar Uravinmurai Society based on

<https://hcservices.ecourts.gov.in/hcservices/>



the resolution passed on the Extraordinary General Body Meeting held on 11.04.2021 and also to conduct enquiry and take necessary action against the Respondents 2 to 25 for fraudulent misuse of signatures obtained from the members and also for the mismanagement committed by them and also to conduct free and fair election to the society to elect Managing Committee by appointing an independent Election Officer and Observer, based on the Petitioner's representation along with 160 other members of the society dated 15.05.2021.

For Petitioner : Mr. A.Mithun Chakravarthi

For Respondent 1 : Mr. P.Thilakkumar,
Counsel on behalf of the
Government of Tamil Nadu

ORDER
(though video conference)

Mr. P.Thilakkumar, Learned Counsel on behalf of the Government of Tamil Nadu takes notice for the First Respondent.

2. The Petitioner, who claims to be a member of the Bodinayakkanur Nadar Uravinmurai Society, has filed this Writ Petition to prevent the First Respondent from in anyway accepting Form-VII and appointing the Respondents 2 to 25 as the Managing Committee of the Bodinayakkanur Nadar Uravinmurai Society based on the resolution passed on the Extraordinary General Body Meeting held on 11.04.2021 and also to conduct enquiry and take necessary action against the Respondents 2 to 25 for fraudulent misuse of signatures obtained from the members and also for the mismanagement committed by them and also to conduct free and fair election to the society to elect Managing Committee by appointing an independent Election Officer and Observer, based on the Petitioner's representation along with 160 other members of the society dated 15.05.2021.

3. Having regard to the aforesaid relief claimed, reference must at once be made to the decision of the Full Bench of this Court in **C.M.S. Evangelial Suvi David Memorial Higher Secondary School Committee -vs- District Registrar, Cheranmahadevi** [(2005) 2 L.W. 550] in which the question as to whether the power of the Registrar to enquire into the affairs of a registered society under the Tamil Nadu Societies Registration Act, 1975, would include the power to enquire into the dispute relating to election to the members of the society, has been considered and held 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."

In view of that legal position governing the controversy involved, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to pursue appropriate legal remedy in that regard before the competent forum. He further informs that memo to that effect would be sent through e-mail, which shall be placed on record.



In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS I)

/ /2021

Sub Assistant Registrar(CS)

NS/SRM

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 District Registrar (Societies),
Periyakulam Registration District,
Periyakulam,
Theni District.

+1 CC to M/s.SPL.GP (SR-19274[F] dated 14/06/2021)

**W.P. (MD) No. 9988 of 2021
and**

**W.M.P. (MD) Nos.7700, 7704 and 7706 of 2021
10.06.2021**

MGJ(27.08.2021) 4P 3C