



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order reserved on 26.03.2021
Order delivered on 23.04.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)Nos.13041, 13709, 13710, 20280 & 16276 of 2019
and

W.M.P. (MD)Nos.9732, 9733 AND 10254, 10255, 11158, 11828 AND 16893,
16894 IN 2019

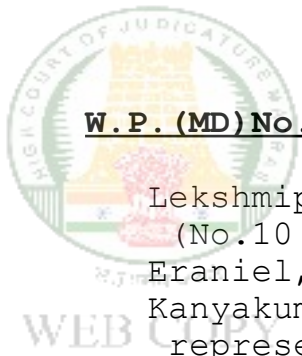
W.P. (MD)No.13041 of 2019

1. Lekshmipuram College Society,
(No.10 of 1964),
Eraniel, Neyyoor - 629 802
Kanyakumari District,
Pin 629 802
represented by its President
2. The Secretary,
Lekshmipuram College Society,
Eraniel, Neyyoor - 629 802
Kanyakumari District, Pin 629 802 ..Petitioners

Vs

1. The District Registrar (Societies),
Kanyakumari District at Nagercoil,
Kanyakumari District.
2. Lekshmipuram College Society,
(No.10 of 1964), Eraniel, Neyyoor - 629 802
Kanyakumari District,
Pin 629 802 represented by its President
V.Lekshmanapillai
(R2 impleaded vide court order dt.8.7.2019
inWMP.No.10857/2019) ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus calling for the records of the 1st respondent pertaining to his order in No.1085/A2/2019 dated 22.04.2019 on his file, quash the same direct him to file the Form 7 dated 11.03.2019 submitted to him by the 1st petitioner, within a time to be fixed by this Hon'ble Court and issue certified copies of the same within the time to be fixed by this Hon'ble Court.



W.P. (MD)No.13709 of 2019

Lekshmipuram College Society,
(No.10 of 1964),
Eraniel, Neyyoor - 629 802
Kanyakumari District,
represented by its President,
V.Lekshamanapillai

..Petitioner

Vs

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai -6.

2. M.Kumar,
S/o Manoharan,
Eraniel, Neyyoor Post,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari calling for the proceedings of the 1st respondent in Moo.Mu.10276/F2/2019 dated 22.03.2019.

W.P. (MD)No.13710 of 2019

Lekshmipuram College Society,
(No.10 of 1964),
Eraniel, Neyyoor - 629 802
Kanyakumari District,
represented by its President,
V.Lekshamanapillai

..Petitioner

Vs

1. The District Societies Registrar (Admin)
Kanyakumari District, Nagercoil.

2. C.Perumal,
S/o Chokalingam Pillai,
C.P.Nivas, Chadaiappanar New Street,
Neyyoor Post,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus to direct the 1st respondent to dispose of the representation of the petitioner dated 08.06.2019 on merits according to law expeditiously.

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W.P. (MD)No.20280 of 2019

1. Lekshmipuram College Society,
(No.10 of 1964),
Eraniel, Neyyoor - 629 802
Kanyakumari District,
Pin: 629 802
represented by its President,
S.Radhakrishnan

2. M.Kumar,
Secretary of the Lekshmipuram College of Arts and
Science, Neyyoor Kaniyakumari District.
..Petitioner

Vs

1. The Director of Collegiate Education,
College Road,
Chennai -600 006.
2. The Regional Joint Director of Collegiate Education,
Tirunelveli,
Tirunelveli District.
3. V.Lekshmana Pillai,
S/o Velayutham,
18-64, Subramanian new Street,
Eraniel,
Neyyoor Post,
Kanyakumari District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari calling for the records of the 1st respondent, pertaining to his order in Na.Ka.No.10276/F2/2018 dated 08.08.2019 on his file and quash the same.

W.P. (MD)No.16276 of 2019

G.Sudhanantha ..Petitioner

Vs

1. The District Registrar (Societies)
Kanyakumari District
at Nagercoil,
Kanyakumari District.



2. S.Radhakrishnan,
President,
Lekshmipuram College Society,
Eraniel, Neyoor Post,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus to direct the 1st respondent to dispose of the representation of the petitioner dated 21.06.2019 according to law expeditiously.

For Petitioners in
WP Nos.13710, 13709
of 2019

:Mr. Isaac Mohanlal
Senior Counsel
for Mr.C.Godwin

For Petitioners in
W.P.Nos.13041 &
20280/2019

: Mr.K.N.Thampi

For Petitioner in
W.P.No.16276/2019

:Mr.G.Cenil

For Respondents 1st
in all the W.Ps

: Mr.M.Jeyakumar,
Additional Government Pleader

For 2nd respondents in
W.P.Nos.13709, 13710
& 16276/2019

: Mr.K.N.Thampi

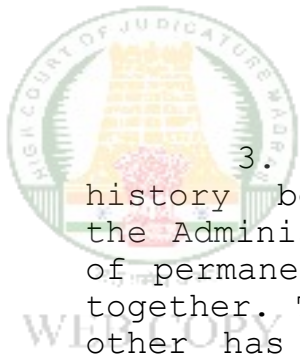
For 2nd respondents in
W.P.Nos.13041
& 20280/2019

: Mr. Isaac Mohanlal
Senior Counsel
for Mr.C.Godwin

COMMON ORDER

All these writ petitions are relating to the affairs of the Lekshmipuram College Society, particularly, with reference to the filing of Form-VII before the District Registrar under the Tamil Nadu Societies Registration Act and also with reference to the approval of Secretaryship of the College Committee by the Educational Authority.

2. The broad facts and the issues raised in all these writ petitions are common and therefore, all these writ petitions are heard and disposed of by a common order as under.



3. The dispute in these writ petitions has a chequered history between two opposing parties which pushed the Society and the Administration of the College run by the Society into a state of permanent uncertainty, entangled in Court proceedings for years together. The litigation galore at the instance of one party or the other has never allowed the Society or the College to function smoothly and peacefully without its affairs being questioned before this Court periodically and frequently at every turn of events.

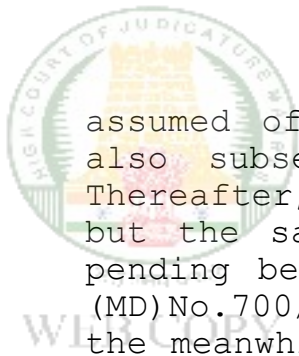
4. The following facts are necessary to trace the genesis of the formation of the Society and the disputes that have originated in taking over the control of the Society and the management of the College.

i) The petitioner is a Society registered under the Societies Registration Act, originally under old Act 1860. After coming into force of the new Tamil Nadu Societies Registration Act 1975, the Society become deemed to be a Society registered under the said Act by virtue of Section 53 of the same. The object of the Society is to run higher Educational Institution and in fullfilment of the object, the Society has started Lekshmipuram College of Arts and Science. The College was established in 1964. The Society is the Educational Agency of the College.

ii) The College was partly aided by the State Government in relation to certain courses conducted by the College and there are certain courses which are self financed. As far as the aided Section is concerned, the College has a sanctioned strength of 46 teaching staff and 34 non-teaching staff and for the self-financed courses, the College has 85 teaching staff and 40 non-teaching staff on its strength.

iii) As far as the election to the Society is concerned, the office bearers were to be elected for a triennium period of 3 years. As far as the present dispute is concerned, it could be traced to the triennium 2012-2015. One V.Lekshmana Pillai was elected as President of the Society of the said triennium along with the executive members. Form VII was submitted and the same was also accepted by the District Registrar under the Tamil Nadu Societies Registration Act 1975. The acceptance of Form VII for the said triennium was put to challenge in W.P.(MD) No.12133 of 2013 by the member of the Society. The said writ petition was dismissed. As against the same, the Writ Appeal(MD) No.700/2014 was filed and the same was pending without any interim order. By passage of time, the tenure of the said triennium had come to an end.

iv) After the expiry of triennium 2012-2015, the new office bearers were to be elected for the subsequent triennium 2015-2018 and the election was conducted on 26.05.2015 and the office bearers



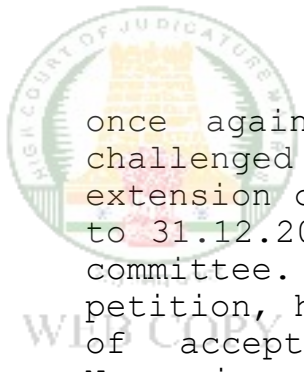
assumed office on 27.05.2015. The election of office bearers was also subsequently approved on 28.05.2015 by the general body. Thereafter, Form-VII was submitted on 29.05.2015 to the Registrar, but the same was not accepted by the Registrar as the issue was pending before the Division Bench of this Court in the above W.A. (MD)No.700/2014 in relation to the earlier triennium 2012-2015. In the meanwhile, the Secretaryship of the College was about to expire on 22.07.2015 and in order to avoid any dislocation in the administration of the College, the elected Executive Committee of the triennium 2015-2018 resolved to continue the then existing College Committee in the office for a further period of six months from 23.07.2015 to 22.01.2016.

v) After the passing of the resolution to the above effect, the College submitted a proposal to the Director of Collegiate Education (hereinafter called as DCE) on 22.06.2015 and the same was accepted by the DCE on 09.07.2015. In the meanwhile, the new office bearers have been requesting the Registrar to accept Form-VII, but no action was forthcoming in view of the pendency of the Writ Appeal in W.A.(MD)No.700/2014. In view of pending acceptance of Form VII before the Registrar, the then Executive Committee was constrained once again to extend the then Secretaryship of the College from 23.01.2016 to 31.12.2017 and the DCE was approached and the same was accepted and extension was also granted vide his proceedings dated 22.12.2015.

vi) While the matter stood thus, it appeared that a rival group headed by one Nagaraja Perumal, had issued notice to its members on 19.02.2016 calling for extraordinary General Body meeting on 13.03.2016 to be scheduled in avenue in one private marriage hall. On 13.03.2016, without proper conduct of extraordinary general body meeting, the group headed by M.Nagaraja Perumal appeared to have got themselves elected illegally and in pursuance of their illegal election the said Nagaraja Perumal submitted Form-VII on 20.03.2016 to the District Registrar for acceptance of Form-VII. The said Form-VII was also not accepted by the District Registrar by his proceedings dated 15.04.2016 citing the same pendency of W.A.(MD) No.700/2014.

vii) The said Nagaraja Perumal, challenging the proceedings of the District Registrar, has approached this Court by filing W.P.(MD)No.8724/2016 and this Court, set aside the proceedings of the District Registrar vide its order dated 04.04.2017 and directed the Registrar to file the Form -VII and communicate the decision taken to the petitioner therein by following the decision of this Court reported in 2009(5) MLJ 1540 (*V.Sobana Kumar v. The District Registrar, Registrar of Societies*).

viii) The said Nagaraja Perumal, by taking advantage of mere acceptance of the Form-VII by the District Registrar, on 04.05.2017,



once again, approached this Court in W.P(MD) No.10583/2017 and challenged the proceedings of the DCE dated 22.12.2015 granting extension of Secretaryship for a period of one year from 23.01.2016 to 31.12.2017 at the instance of the duly elected earlier executive committee. This Court, in consideration of the plea in that writ petition, has granted interim stay. Therefore, the DCE, on the basis of acceptance of Form-VII and the rival group led by Nagarajaperumal, had issued proceedings on 21.09.2017 granting approval of the said Nagaraja Perumal as Secretary of the College for a period of one year from 21.09.2017 to 20.09.2018. Subsequently, the DCE, cancelled the approval granted to the Secretaryship of the said Nagaraja Perumal, vide its proceedings dated 26.09.2017 and imposed direct payment to the college in terms of the proceedings of the District Registrar dated 15.06.2017 holding that the issue regarding the approval of the Executive Committee could be established only before the competent Civil Court.

ix) As the triennium 2015-2018 was coming to an end, the General Body meeting was convened on 10.04.2018 for the conduct of election for the present triennium 2018-2021 and the election schedule was fixed. In the meanwhile, the said Nagarajaperumal in W.P.(MD)No.18880/2017 challenged the above proceedings of the DCE dated 26.09.2017 and this Court, while entertaining the writ petition, granted interim order of stay on 23.04.2018. In the meanwhile, the said Nagaraja Perumal expired on 05.05.2018. Thereafter, on 14.05.2018, the Society convened the General Body elected Board of Directors for the triennium 2018-2021. In the meanwhile, one Kumar claiming himself to be the Secretary of the College, submitted his representation to the DCE for his approval, after the demise of the said Nagarajaperumal, vide his representation dated 24.05.2018.

x) After the present triennium election, Form-VII was submitted on 31.05.2018, thereafter, another Form-VII was submitted by one C.Perumal simultaneously on 01.06.2018. In the meanwhile, in response to the request of said Mr.Kumar, the DCE passed an order on 04.07.2018 approving him as Secretary of the College for a period from 19.05.2018 to 20.09.2018 with a condition that he must produce the acceptance of Form-VII. Soon after his approval on 13.08.2018, the Writ Appeal, in the meanwhile, which was pending from 2014 in W.A.(MD)No.700/2014 came to be dismissed as having become infructuous, since the dispute relating to earlier triennium was over by efflux of time. The District Registrar, in respect of the Form VII submitted by the said C.Perumal, vide his proceedings dated 27.08.2018, refused to register Form-VII filed by him on 01.06.2018. Simultaneously, the Registrar also refused to register Form-VII, submitted by the group led by V.Lakshmana Pillai, who got elected in the present triennium in the election conducted on 14.05.2018. The District Registrar, refused to register Form-VII on the ground that



the earlier Form-VII registered in the name of Nagarajaperumal expires only in 2019 and therefore, further Form-VII could not be accepted.

xi) The Society, in the meanwhile, has submitted a proposal to the DCE on 11.09.2018, seeking approval of one Subramaniam as the Secretary of the College from 21.09.2019 to 18.01.2021 as a consequence of the election of office bearers in the election conducted on 14.05.2018 of the latest triennium 2018-2021. However, C.Perumal, whose Form-VII which was refused to be accepted, challenged the proceedings of the District Registrar in W.P.(MD) No.19718 of 2018 and in the said writ petition, W.M.P.No.17505/2018 was also filed by the C.Perumal seeking an innocuous direction for issuance of certified copy of Form-VII submitted by him dated 22.05.2018. One other writ petition was filed by Mr.M.Kumar in W.P.(MD).No.22588 of 2018 seeking approval of his Secretaryship by considering his representation for a further period. Shri.Lekshmana Pillai, who was duly elected as a President of the Executive Committee in the election conducted on 14.05.2018 also approached this Court in W.P.(MD)No.24733/2018 challenging the proceedings of the District Registrar declining to accept Form-VII.

xii) This Court, in the Writ Petition filed by C.Perumal in W.P.(MD)No.19718/2018, by order dated 24.09.2018, has directed the District Registrar to furnish a certified copy of Form-VII submitted by him in W.M.P.(MD)No.17505/2018. Subsequently, this Court appears to have disposed of the writ petition on 15.11.2018, filed by Mr.M.Kumar seeking direction to the DCE to consider his representation in W.P.No.22588/2018. However, the DCE declined to approve the candidature of Mr.M.Kumar as the Secretary of the College and ordered to the College to be brought under direct payment vide his proceedings dated 26.12.2018. The said Mr.M.Kumar approached this Court, challenging the order of the DCE in W.P.(MD). No.103/2019.

xiii) While the matter stood thus, on 25.10.2019, this Court, disposed of W.P.No.24733/2018 filed by Lekshmana Pillai directing the District Registrar to furnish the adverse report against the petitioner therein and being aggrieved by the order of the learned single Judge, the said Leksmana Pillai approached the Court by filing W.A.(MD).No.320/2019. However, the said writ appeal was dismissed on 08.05.2019 by confirming the order of the learned single Judge.

xiv) In the meanwhile, the directions issued by this Court to DCE to dispose of the representation submitted by M.Kumar in W.P.No.22588/2018, vide order dated 15.11.2018, appears to have not been complied with, forcing the petitioner therein to file contempt petition and under the threat of contempt action being taken by this Court, the DCE is stated to have passed an order on 04.03.2019



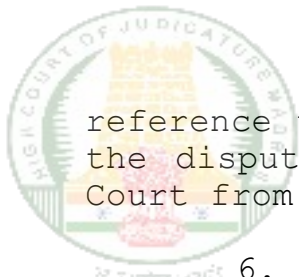
approving the Secretaryship of M.Kumar till 19.03.2019, as according to him, that was for the earlier triennium period of the duly elected society 2016-2019.

xv) Subsequently, it appears that one Radhakrishnan on 10.03.2019 filed Form VII after the expiry of the period of earlier Form-VII. In the meanwhile, DCE also granted approval to M.Kumar as the Secretary for one year from 20.03.2019 to 19.03.2020 as the earlier approval had come to end on 19.03.2019, subject to the condition that he produces the acceptance of Form-VII within one year by his proceedings dated 22.03.2019. Thereafter, Form-VII submitted by the said Radhakrishnan was declined to be accepted by the District Registrar, vide proceedings dated 22.04.2019. Challenging the refusal of the Registrar to accept the Form-VII, the said Radhakrishnan claims to be representing the Society has approached this Court by filing a Writ Petition W.P.No.13041/2019 which is covered under this common order of this Court. The said V.Lekshmanapillai has also submitted his representation for approval of Form-VII of the triennium 2018-2021 and the same is pending.

xvi) As far as approval granted by DCE to M.Kumar as Secretary of College, the said Leksmanapillai filed W.P.(MD) No.13709/2019 challenging the proceedings of the DCE dated 22.03.2019, which is again covered by this common order. Thereafter, a Writ of Mandamus was filed by the said Leksmanapillai to consider his representation in W.P.(MD)No.13710/2019. The representation appears to have been addressed to the District Registrar seeking to accept his Form-VII for the triennium 2018-2021. This Court, in the meanwhile, granted interim stay of the operation of the DCE proceeding dated 22.03.2019, approving the Secretaryship of M.Kumar in W.P.(MD)No.13709/2019 on 19.06.2019. In compliance of the interim order, the DCE cancelled the approval granted to the said Kumar vide its proceedings dated 08.08.2019.

xvii) Thereafter, on 30.09.2019, W.P.(MD).No.103/2019 filed by Mr.M.Kumar, challenging the direct payment, was withdrawn. Yet another writ petition in W.P.(MD)No.20280/2019 was filed by the Society represented by Radhakrishnan, challenging the proceedings of the DCE dated 08.08.2019, which is in fact, an order passed in furtherance of the direction of this Court in W.M.P.No.10255/2019 in W.P.(MD) No.13709/2019 dated 19.06.2019 that the College will come under direct payment till a final decision is taken in the said writ petition. The said writ petition is also covered under the present common order. The long trajectory of the dispute thus far is narrated above.

5. For the rival parties, learned counsel Mr.K.N.Thambi, appeared on one side and learned counsel, Mr.C.Godwin on the other, led by learned Senior Counsel Mr.C.Isaac Mohanlal. An elaborate submissions have been made by learned counsel Mr.K.N.Thambi, drawing



reference to several documents in order to highlight the history of the dispute between the parties and the directions issued by this Court from time to time in various writ petitions.

6. On the other side, the learned senior counsel Mr. Isaac Mohanlal has drawn reference to the earlier orders passed by this Court and how the rival group has misused the innocuous directions given by this Court and manipulated the same to get approval of Secretaryship of the College, deviously.

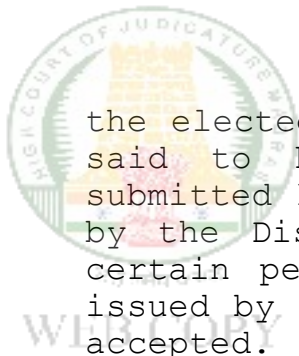
7. The matter was heard fully and in the course of hearing, this Court, in the interest of the Society as well as the College run by it, suggested that the affairs of the Society and the administration of the College to be handed over to an Administrator to be appointed by this Court till there is a final resolution of dispute in regard to the election to the Society and the constitution of the College Committee. The suggestion fell from this Court was acceptable by the learned counsel, Mr.C.Godwin, led by the learned Senior Counsel, Mr. Isaac Mohanlal. However, learned counsel, Mr.K.N.Thambi, appearing for his parties requested sometime to convince his clients for amicable solution to the unresolved vexed dispute qua parties for several years. Unfortunately, the learned counsel, Mr.K.N.Thambi, reported to this Court that despite his best efforts to convince his clients, no conciliatory reaction is forthcoming and he requested this Court to pass orders on merits on the rival claims of the parties.

8. In the light of the elaborate factual narrative as above, the raging dispute between two sets of claims is in relation to triennium election for the period 2015-2018 and for the subsequent triennium period from 2018-2021. As regards the triennium 2012-2015, there did not appear to be of any serious dispute. But for the subsequent two periods of triennium, number of writ petitions have been filed as could be seen in the above narration, all touching upon the issue of acceptance of Form-VII by the District Registrar and as a corollary to the dispute, as to the approval of Secretaryship of the College, run by the Society. In the said circumstances, the dispute could be classified into two categories. One, is in relation to the election to the Society and the other, is approval of Secretaryship of the College Committee. As regards the second issue is concerned, it is consequence of the first issue, namely the election to the Society. In this background, this Court would wish to examine the prayers as contained in the five writ petitions viz., W.P.Nos.13041, 13709, 13710 of 2019, 16276 of 2020 & 20290 of 2019, which are covered under the present order.

(1) W.P.No.13041/2019

This writ petition has been filed seeking to challenge the proceedings of the District Registrar dated 22.4.2019. The writ petition has been filed by one S.Radhakrishnan, claiming himself as

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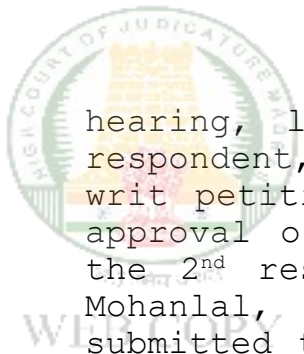
the elected President of the Society through a General Body meeting said to have been conducted on 03.03.2019. When Form-VII was submitted by the said S.Radhakrishnan, it was declined to be taken by the District Registrar on the ground that audit reports for certain period had not been submitted and in terms of a circular issued by the Inspector General of Registration, the same cannot be accepted. The challenge by the Society represented by the said S.Radhakrishnan is that the refusal by the Registrar is against the ruling of this Court report 2016(2) CWC 779 (*Kallar Kalvi Kazhagam Usilampatti, Madurai vs. The District Registrar (Admn.) Periyakulam, Theni*). Mr.K.N.Thambi, learned counsel vehemently argued that it is not for the Registrar to refuse to register on that plea which is against the ruling of this Court and he would draw reference to the order passed by learned Judge of this Court in W.P.No.5782/2016 dated 01.08.2016. He would particularly draw reference to paragraph No.16 of the said order, which reads as follows:

Further, it is the plea of the Petitioner/Society that in reality, the ingredients of Section 16(3) of the Tamil Nadu Societies Registration Act, 1975, does not make it a pre-condition for filing of the accounts in respect of the preceding years, for obtaining an approval in respect of Form VII and in the absence of the same, the 'impugned Order', dated 3.12.2015 of the First Respondent/ District Registrar (Admn.), Periyakulam, Theni, in keeping the Form VII pending and the subsequent impugned Order, dated 21.12.2015, refusing to approve Form VII are clearly bad in law.

He would submit that on that sole ground, the writ petition has to be allowed. The legal submissions made on behalf of the learned counsel may be correct, yet whether the Form-VII submitted by the said S.Radhakrishnan to be accepted in the overall facts and circumstances or not is to be seen in this writ petition particularly, with reference to the other writ petitions to be covered under this common order. This Court also cannot lose sight of the fact, the issue pertaining to the acceptance of Form-VII as to the actual period of triennium, either it is 2018-2021 or 2019-2022 as claimed by the respective parties. In the said circumstances, the larger issue is to be addressed by this Court, instead of confining its consideration as what actual reason is stated in the impugned order dated 22.04.2019 by the Registrar. This Court shall proceed to consider the prayers in the other writ petitions for the present.

(2) W.P.No.13709/2019:

This Writ petition is filed challenging the order of DCE dated 22.03.2019 granting approval of Secretaryship of one M.Kumar from 20.03.2019 to 19.03.2020, by the petitioner Society represented by Lekshmanapillai, who claims himself to be the duly elected President of the Society during the relevant triennium 2018-2021 in the election held on 14.05.2018. When this matter was taken up for



hearing, learned counsel Mr.K.N.Thambi, who appeared for the 2nd respondent, namely the said Kumar, vehemently submitted that the writ petition has become infructuous in view of the expiry of the approval of one year Secretaryship granted to his client M.Kumar, the 2nd respondent. At this, the learned senior counsel Mr.Isaac Mohanlal, who appeared for the petitioner in this writ petition submitted that in the overall consideration of all these four writ petitions, the matter in this writ petition also need to be heard as the approval granted by the DCE to Mr.M.Kumar is patently illegal and unsustainable. According to the learned Senior Counsel, the order passed by the DCE, though for a period of one year from 20.03.2019 to 19.03.2020 and the period was over, yet the appointment has to be examined by this Court whether it was legally made or not. By dismissing the writ petition as having become infructuous, the validity of the said appointment would go untested and it might give some advantage to the other party in legitimizing their presence in the Society.

This Court has taken note of the limited period covered by the impugned order and the submission of the learned counsels on either side and shall come up with an appropriate conclusion at the end of this judgment.

(3) W.P.No.13710/2020:

This Writ Petition is filed to issue a Writ of Mandamus directing the District Registrar to consider the representation of the petitioner dated 08.06.2019, namely the submission of Form-VII for the triennium 2018-2021. The writ petition was filed by the Society represented by B.Lekshmipillai, who according to him was elected as President of the Society to the present triennium 2018-2021 in the election held on 14.05.2018. In the said writ petition, notice was ordered and no specific significant arguments have been advanced on behalf of the parties, however, the arguments submitted in respect of the other writ petitions may also be taken into consideration for passing orders in this writ petition as well.

(4) Insofar as **W.P.No.16276/2019** is concerned, the same has been filed by one Sadhanantha who claims to be a member of the Society, appears to have submitted a representation on 21.06.2019 to the District Registrar complaining about the fraudulent election conducted by one group which led to the election of S.Radhakrishnan, who is arrayed as the 2nd respondent in the writ petition. The affidavit filed in support of this writ petition is completely bereft of any basic details and in the absence of any relevant facts for consideration, this Court cannot issue any direction to the District Registrar to consider the representation of the petitioner. The affidavit is completely sketchy and the averments are bald and no worthy material is disclosed in the affidavit as to the nature of grievance of the petitioner in regard to the election of the 2nd respondent. In any case, since this Court is taking a call in respect of the substantive issues raised in the other four writ

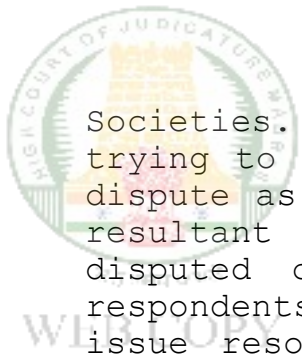


petitions, this Court is not inclined to entertain this writ petition and issue any direction at the instance of one member of the Society. In fact, issuing such seemingly innocuous direction at the instance of one member or the other of the Society would ultimately and invariably end up in complicating the issues, concerning the affairs of the Society. Therefore, considering the overall circumstances, this Court does not think that this writ petition can be entertained. Therefore, W.P.No.16276/2019 is dismissed as not maintainable on merits.

(5) W.P.No.20280/2019:

This writ petition is filed challenging the order dated 08.08.2019 passed by the DCE by bringing the College under the direct payment method in terms of the interim order passed by this Court in W.M.P.No.10255/2019 in W.P.No.13709/2019 dated 19.06.2019. The writ petition is filed by S.Radhakrishnan, claiming to be the President of the petitioner Society, the rival group, according to him, he was elected as President through the General Body held on 03.03.2019 for the triennium 2019-2022. As regards this writ petition is concerned, though arguments were advanced primarily in regard to the overall dispute as between the two opposing groups, this Court, in consideration of the prayer in this writ petition, has to come to a conclusion that the impugned order passed by the DCE cannot be faulted with for the obvious reason that the order was passed by the Director only in pursuance of the direction of this Court passed by the learned Judge in the above mentioned W.M.P on 19.06.2019. However, the fate of this writ petition has to be decided on the basis of the fate of the writ petition in W.P.No.13709/2019 as the learned Judge has stated that direct payment method would continue till the final disposal of the said writ petition.

9. As regards the first writ petition W.P.No.13041/2019, learned counsel Mr.K.N.Thambi, has vociferously submitted that the proceedings of the District Registrar dated 22.04.2019 is liable to be quashed in view of the decision of this Court cited by him which was referred to earlier. The non-furnishing of audit report cannot be a reason for refusing to register Form-VII. This Court, taking into consideration, the entire gamut of issue placed for consideration, is of the view that the reasons set forth in the impugned order dated 22.04.2019, may not be relevant or significant for taking a decision in this matter. It is needless to mention that there has been serious dispute between two group of persons who are attempting to take control of the Society and the College for the last two triennium and there is also a dispute with regard to what is the present actual triennium, whether it is 2018-2021 or 2019-2022. In such view of the matter, the non-acceptance of Form-VII submitted by one set of persons, claiming themselves to be duly elected office bearers of the Society, may have to be ultimately decided by a competent Civil Court and not by the Registrar of

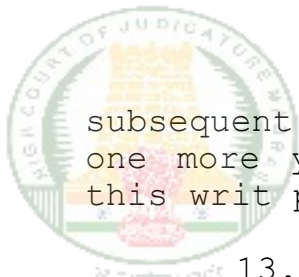


Societies. When two group of opposing sides have been constantly trying to take control of the Society, there appears to be serious dispute as to the validity of the conduct of the election and the resultant election of office bearers. The proper course in such disputed circumstances open for the petitioner or the private respondents, is to approach the competent Civil Court to have the issue resolved once for all and any direction to be issued or quashing of the order dated 22.4.2019, would not bring about any solution to the protracting controversies qua parties. In fact, that would only further escalate the subsisting dispute of the parties and would ultimately plunge the Society and the administration of the College into a permanent state of turmoil and inbroglío.

10. Therefore, this Court is of the considered view that in order to find a lasting solution to the warring groups, the proper course for the parties is to approach the Civil Court and have the matter resolved through judicial interference, as this Court finds that there is no rapprochement possible between the opposing groups despite the efforts of this Court calling for an amicable way out of the legal logjam. As stated above, this Court tried its best to resolve the issue by suggesting appointment of an interim administrator, though it was agreed to by the group represented by the learned counsel Mr.C.Godwin, but the group represented by the learned counsel, Mr.K.N.Thambi was not agreeable.

11. In the overall consideration, this Court is not inclined to premise its decision only on the validity of the reasons as set forth in order passed by the District Registrar dated 22.04.2019, as any orders to be passed on a superficial appreciation of the reasons contained in the impugned proceedings would only have serious adverse ramifications detrimental to the interest of the Society and the College administration. On such comprehensive consideration, this Court has to necessarily reject the writ petition and therefore, W.P.No.13041/2019 stands dismissed.

12. W.P.No.13709/2019: This writ petition is filed challenging the order dated 22.03.2019 passed by the DCE granting approval for Secretaryship of one Mr.M.Kumar for a period from 20.03.2019 to 19.03.2020. This Court finds that there is force and substance in the arguments advanced on behalf of the petitioner herein that the approval was granted hurriedly without proper consideration of the dispute and also the fact that, a seemingly innocuous direction was obtained from this Court in W.P.No.22558/2018, dated 15.11.2018, by directing the DCE to consider the representation of M.Kumar, who was the petitioner therein claiming himself as the Secretary of the College. In consideration of the direction, an order was issued originally on 04.03.2019 approving the said Kumar as Secretary of the College Committee for a period of 16 days i.e., till the end of the subsisting triennium period and on the basis of the said order, the



subsequent order dated 22.03.2019 was passed extending the period of one more year from 20.03.2019 to 19.03.2020 which is impugned in this writ petition.

13. Although today, the issue has become infructuous in view of the efflux of time and the period of one year extension was already over, yet the contention raised on behalf of the learned counsel, Mr.C.Godwin, cannot be brushed aside. The DCE ought to have taken into consideration the dispute as to the election of office bearers of the Society and the other related matters and ought to have directed the parties to establish their claim in unequivocal terms leaving no room for any doubt as to the validity of the claim. The DCE passed the order purported to be in pursuance of the direction of this Court, but mere direction of this Court, to consider the representation and pass order did not obligate the Director to pass any positive order, regardless of the looming dispute qua parties.

14. In any case, the issue as such, is not subsisting any more before this Court calling for adjudication and therefore, the Writ petition ought to be dismissed as having become infructuous. Therefore, W.P.No.13709/2019 is dismissed.

15. W.P.No.13710/2019: This Writ petition is filed by the Society represented by its President by V.Lekshmanapillai, who is represented by the learned counsel, Mr.C.Godwin, led by the learned Senior Counsel, Mr.Isaac Mohanlan. As stated earlier, the prayer in the writ petition is only for issuance of Writ of Mandamus to dispose of the representation of the petitioner dated 08.06.2019 addressed to the District Registrar for acceptance of Form-VII submitted by the said Lekshmanapillai for the present triennium 2018-2021 as the President of the Society duly elected in the election conducted on 14.5.2018. This Court is however, not inclined to give the direction as prayed for in this writ petition for the reasons as expressed above, and also in the face of the dispute between the rival claim as to whether the present petitioner is duly elected President for the triennium 2018-2021 or the other group led by S.Radhakrishnan, who claim himself to be duly elected for the triennium 2019-2022. Such competing claims would have to be settled comprehensively only by a declaration of the Civil Court having jurisdiction. In the absence of any legal solution being found as against the ongoing prolonged dispute between the parties, this Court cannot, on the basis of self serving averments of the respective petitioners, issue any direction to the statutory authority.

16. Therefore, the writ petition, in the opinion of this Court, cannot be entertained in the facts and circumstances of the case and the same is also to meet the same fate as the other writ petition in W.P.No.13041/2019. Therefore, this W.P.No.13710/2019



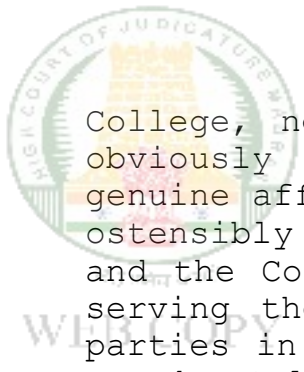
stands dismissed.

17. W.P.No.20280/2019: This writ petition is filed challenging the order dated 08.08.2019 passed by the DCE extending the period of direct payment in respect of the College run by the Society on the basis of the interim order passed by this Court in W.P.No.10255/2019 in W.P.No.13709/2018 dated 19.06.2019 wherein the learned Judge of this Court has ordered direct payment to the College till the final disposal of the writ petition.

18. The writ petition (W.P.No.13709/2019) has been now dismissed as infructuous as the issue was found to be no more subsisting calling for any further adjudication by sheer passage of time. While dismissing the writ petition certain observations have also been made as above on the faulty approach of the DCE whose approval proceedings of Secretaryship of the College committee is the subject matter of challenge. In that view of the matter, the present challenge to the proceedings of the Director dated 08.08.2019 would have to be discountenanced for the reason that the Society and the College being entangled in the legal dispute for several years continuously and the elected office bearers from one group or the other have not been able to settle down in the office in view of the continuous challenges being made under some pretext or the other for acceptance of Form-VII and also challenge to the approval of Secretaryship and non-approval of Secretaryship of particular office bearer all along.

19. In such fluid and uncertain protracted scenario, which the Society and the College have been subjected to, at the instance of its members or the so called office bearers, it is in the interest of the institution that the College must be brought under direct payment so that the administration and the academic activities of the institution are not affected or impaired pending clash of the interests. Therefore, in consideration of the paramount interest of smooth and uninterrupted functioning of the College, the order passed by the DCE dated 08.08.2019 need not be interfered with as of now. In any case, the order was passed in furtherance of the direction passed by this Court. In the circumstances, W.P.No.20280/2019 is dismissed as being without any merits and substance.

20. This Court, having taken a decision as above in respect of the above batch of writ petitions, cannot leave the state of affairs of the Society and the administration of the College in a state of limbo. Therefore, some arrangement or system has to be put in place so that the affairs of the Society and administration of the College do not suffer from any needless dislocation or disturbance. In consideration of the avowed objects of the Society, for which, it was established in 1964 and also the object for which the College was founded in the same year, both the Society and the



College, need to be rid off from the warring office bearers, who obviously and presumably have no legitimate interest over the genuine affairs of the Society and the College. They are probably or ostensibly interested in taking over the affairs of the Society and the College for promoting their personal interest and towards serving their own ends. The unyielding and obdurate stand of the parties in not allowing one party to gain control over the Society or the College for years together has been a brazen show of self interest over the interest of the Society or the College. In these repeated fight for control over the affairs of the Society and the College for self aggrandizement, the Society or the College cannot be allowed to suffer from the attritional effect of incessant internecine quarrel.

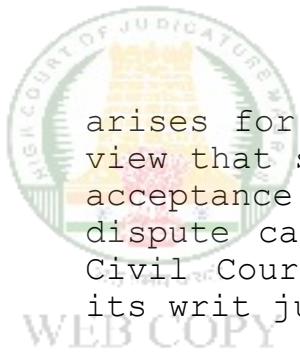
21. In the above circumstances, while disposing of the writ petitions, it is imperative to issue the following directions:

i) As far as the Society is concerned, the District Registrar of Societies is directed to approach the competent authority of the Government for appointment of a Special Officer to take over the Society as expeditiously as possible but not less than eight weeks from the date of receipt of a copy of this order. If any Special Officer is appointed under the provisions of the Societies Registration Act, the Special Officer shall explore the possibility of conducting election to the Society on a priority basis and hand over the administration of the Society to the newly elected office bearers of the Society in the election to be conducted under his supervision. The competent authority, while appointing the Special Officer, may fix any time limit for this purpose as he deems fit.

ii) As far as Lekshmipuram College of Arts and Science, Kanyakumari District is concerned, the Director of Collegiate Education shall pass orders for bringing the Institution under direct payment till the conflict as to who is the Secretary of the College is resolved in terms of the election to the Society. The Director of Collegiate Education is also at liberty to approach the Government for appointment of Special Officer to manage the administration of the College in terms of Section 14A of the Tamil Nadu Private Colleges (Regulation) Act, 1976, till the controversy connected to the election of the valid office bearers to the Society is resolved.

iii) The Director of Collegiate Education is directed to pass appropriate orders in this regard within a period of four weeks from the date of receipt of a copy of this order. He is also directed to simultaneously approach the Government with his report seeking appointment of Special officer as expeditiously as possible.

iv) As regards the election dispute to the Society, it is open to the parties to approach the competent Civil Court if need



arises for resolving any conflicting claims as this Court is of the view that such dispute cannot be resolved by mere acceptance or non-acceptance of Form-VII by the District Registrar of Societies. Such dispute can eventually and ultimately to be resolved only by the Civil Court and not by the Registrar or by this Court, exercising its writ jurisdiction.

22. Subject to the above directions, all these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

vsi

To

1. The District Registrar (Societies),
Kanyakumari District
at Nagercoil, Kanyakumari District.
2. The Director of Collegiate Education,
College Road, Nungambakkam, Chennai -6.
3. The District Societies Registrar (Admin)
Kanyakumari District, Nagercoil.
4. The Regional Joint Director of Collegiate Education,
Tirunelveli,
Tirunelveli District.

10CC'S TO MR. K.N. THAMBI, ADVOCATE SR.NOS.17449, 17443, 17446, 17445, 17444, 17448, 17452, 17450, 174451, 17447.

1CC TO THE SPL GOVT PLEADER SR 13313

2CC'S TO MR. C.GODWIN ADVOCATE SR 17195

TR

06/05/2021

18P/18C

Order made in

W.P. (MD) Nos.13041, 13709, 13710, 20280 & 16276 of 2019
23.04.2021