



WEB COPY



W.P.No.22895 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

W.P.No.22895 of 2022

and

W.M.P.Nos.21922 & 21923 of 2022

Natasha Storey

.. Petitioner

-Vs-

The Auroville Foundation,  
Represented by its Secretary,  
Auroville Foundation Bhavan,  
Auroville - 605 101.

.. Respondent

**Prayer:** Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records and quash the office order dated 01.06.2022 bearing No.AF/M/63, issued by the respondent and consequentially direct the respondent to appoint the members nominated by the Residents' Assembly through its Working Council to the Auroville Town Development Committee.

For Petitioner : Mr.M.V.Swaroop

For Respondent : Mr.Vaibhav R.Venkatesh



W.P.No.22895 of 2022

## **ORDER**

**WEB COPY** The prayer sought for herein is for a Writ of Certiorarified Mandamus to quash the order dated 01.06.2022 bearing No.AF/M/63, issued by the respondent and consequentially, direct the respondent to appoint the members nominated by the Residents' Assembly through its Working Council to the Auroville Town Development Committee.

2. The Parliament has enacted an Act called Auroville Foundation Act, 1988, (in short, 'the Act'). Under the Act, the power of the Central Government to direct vesting of the undertakings in the foundation has been provided under Section 6. Under Section 10 of the Act, a foundation can be established and incorporated i.e., called the Auroville Foundation. Under Section 11, there shall be a Governing Board consisting of various members. The terms of the office of the members is mentioned in Section 12. The salary and perquisites is provided under Section 13. How the meetings to be conducted by the Board is mentioned in Section 14. There would be a Secretary and other office bearers of the Foundation in Section 15.





who are, for the time being, entered in the register of residents maintained

under this Section. Under Section 19, the functions of the Residents'

Assembly has been provided, which reads thus:

***“19. Functions of Residents' Assembly.-***

*(1) The Residents' Assembly shall perform such functions as are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville.*

*(2) In particular, and without prejudice to the foregoing powers, the Residents' Assembly may-*

*(a) allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under Section 32;*

*(b) organise various activities relating to Auroville;*

*(c) formulate the master plan of Auroville and make necessary recommendations for the recognition of organisations engaged in activities relatable to Auroville for the approval of the Governing Board;*

*(d) recommend proposals for raising funds for Auroville for the approval of the Governing Board.*



W.P.No.22895 of 2022

*(3) For the purpose of carrying of its functions, the Residents' Assembly may establish such committees as it may consider necessary which shall represent it in relation to the functions to be performed by the Governing Board.”*

5. Various other provisions also have been provided, including the power to make recommendation, which is vested with the Board.

6. With the above legal background, the order passed by the respondent Board i.e., the Auroville Foundation dated 01.06.2022, reconstituting the Council called the Auroville Town Development Council (ATDC), is under challenge in this writ petition.

7. The petitioner being a resident of Auroville town has chosen to challenge the order in this writ petition on the ground mainly that, so far as the powers of the Residents' Assembly is concerned, which constitutes all the residents, who are registered in the register under Section 18 of the Act, they will have the primacy in town planning of the Auroville Town and for such purpose, they will be constituting an Assembly consisting of



W.P.No.22895 of 2022

all the members and whose advice and recommendations shall bind on the Board. Therefore, if at all any constitution is to be made by the respondent, like the Auroville Town Development Council, as they have done through the impugned order, it must primarily consist of majority of the members from the Assembly and without the members of the Assembly or very minimal members of the Assembly, if any Council like the present one is constituted by the respondent through their Governing Board, that will run *contra* to the working pattern of the Act. That apart, this impugned order has been passed by constituting the Council on the basis of the revalidated standing orders of the Board and the said standing orders, according to the learned counsel appearing for the petitioner, since either lapsed or no such standing order has ever been issued by the respondent. The claim made by the respondent through the impugned order that, the Council is constituted under the provisions of the standing order shall not stand in the legal scrutiny. Therefore, on that ground also, the impugned constitution is under challenge.

8. Reiterating the aforesaid, Mr.M.V.Swaroop, learned counsel appearing for the petitioner made submissions, therefore, he seeks indulgence of this Court against the impugned order.



W.P.No.22895 of 2022

WEB COPY 9. *Per contra*, Mr.Vaibhav R.Venkatesh, learned counsel appearing for the respondent Foundation, on instructions, would submit that, even though the standing orders have been quoted in the impugned order, the main source of power of the Board of the Foundation to constitute such Committees is derived from Section 16 of the Act. Especially under Section 16, the power is vested with the Governing Board, who can appoint such Committees that may be necessary for the efficient discharge of its duties and performance of its functions under the Act.

10. When that being so, merely because certain standing orders have been issued in this regard, either have been lapsed or no such standing orders have been issued, that would not in any way hamper the power of the Governing Board to constitute a Council like the Town Development Council. Therefore, the impugned order is to be sustained, he contended.

11. He would further submit that, insofar as the functioning of the Residents' Assembly is concerned, as provided under Section 19, the



W.P.No.22895 of 2022

Residents' Assembly shall perform such functions, which are provided under the Act and shall advise the Governing Board in all activities relating to the residents of Auroville.

12. Therefore, he would submit that, primarily the functions entrusted with the Residents' Assembly is only advisory in nature. Therefore, whatever advice the Assembly wants to give to the Board, they can very well give. Therefore, the mere constitution, as has been done through the impugned order, will not hamper the power or take away or abrogate the jurisdiction of the Residents' Assembly, as has been provided under the various provisions of the Act. Therefore, on that ground also, the impugned order cannot be successfully assailed, he contended.

13. I have considered the said submissions made on either sides and perused the materials placed before this Court.

14. If we look at the scheme of the Act, there shall be a Foundation called the Auroville Foundation, which should be established and that has already been established under Section 10 of the Act and there would be a Governing Board under Section 11 of the Act.



W.P.No.22895 of 2022

15. Under Section 16 of the Act, the Governing Board may appoint such committees, as may be necessary for the efficient discharge of duties and performance of its functions under the Act.

16. Various functions have been entrusted to the Governing Board under the provision of the Act. Therefore, in order to execute such functions, very many Committees to the convenience of the Board can be appointed. This inference can be drawn from the language used by the legislature in Section 16 of the Act.

17. When that being so, the power of the Board to constitute any Committee like the one called the Town Development Council, which is now been constituted, cannot be questioned.

18. Assuming that in the impugned order, certain standing orders have been quoted as source of power or otherwise, by the respondent, mere quoting of the standing order would not take away or abrogate the power vested with the Board under Section 16 of the Act. Therefore, on that ground, there can be no defect on the part of the respondent in passing the impugned order constituting the Committee.



W.P.No.22895 of 2022

19. If at all there is a defect, which has occurred in passing the impugned order by the respondent, by quoting the standing order, that defect is a curable one, therefore, that can be cured by the respondent by issuing any suitable corrigendum in this regard.

20. Insofar as the role of the Residents' Assembly is concerned, no doubt, the Residents' Assembly is one of the body under Section 18 of the Act and its function also have been enumerated under Section 19 of the Act. On seeing the provisions of sub-Sections of Section 19, it makes very clear that, the Assembly may allow the admission or cause termination of persons in the register etc, organise various activities relating to the Auroville, formulating master plan of Auroville and make necessary recommendations for recognition of organisations engaged in activities and also recommending proposals for raising funds for Auroville for the approval of the Governing Board.

21. Therefore, the activities which are provided under Section 19 of the Act, which are to be undertaken by the Residents' Assembly is only in the nature of supplementing, but not supplanting the main power and function vested with the board under the provisions of the Act. Therefore,



W.P.No.22895 of 2022

merely because the constitution of the Development Council for the purpose of Section 16 having been made by the respondent through the Board, the petitioner cannot claim that being a member of the Assembly, the right of the Assembly is getting affected and thereby, the functions of the Assembly also as entrusted through the provisions of the Act is getting affected. The petitioner is having such kind of notion without any legal basis, therefore, it is liable to be rejected.

22. In that view of the matter, this Court is inclined to dispose of this writ petition in the following terms:

- That the impugned order is sustainable, accordingly, it is sustained.

However, the respondent shall issue a corrigendum as to under which provision of the Act, the impugned order has been passed, which must probably be only under Section 16 of the Act, therefore, that shall be looked into. Accordingly, the appropriate corrigendum shall be issued by the respondent to the impugned order, tracing the power under which such order has been issued to that effect, within a period of four weeks from the date of receipt of a copy of this order.



W.P.No.22895 of 2022

**WEB COPY** 23. With these directions, the writ petition is dismissed. However, there will be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

**13.10.2022**

Index: Yes/No  
Speaking/Non-speaking order  
drm/sp



WEB COPY



W.P.No.22895 of 2022

**R. SURESH KUMAR, J.**

drm/sp

W.P.No.22895 of 2022

and

W.M.P.Nos.21922 & 21923 of 2022

13.10.2022