



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.29743 of 2019

&

W.M.P.No.29642 of 2019

Dr.T.R.Udayakumar

...Petitioner

Vs

1. The Registrar and Returning Officer,
Tamil Nadu Nurses and Midwives council,
Santhome High Road,
Chennai - 04.
2. Tamil Nadu Government Nurses Association
Rep.by its General Secretary
K.Valarmathy, Office at Madras Medical College,
Near Park Town Station, Park Town, Chennai - 600 003.
(Impleaded as per order dated 15.11.2019 made in W.M.P. No.
32490/2019 in W.P. 29743/2019)
3. S.Kalimmal
(R3 impleaded as per order dated 15.11.2019 made in W.M.P. No.
32608/2019 in W.P. 29743/2019)
4. S.Kannan
(R4 impleaded as per order dated 15.11.2019 made in W.M.P. No.
32609/2019 in W.P. No. 29743/2019)
- 5.R.Jeeva Stalin
(R5 impleaded as per order dated 28.01.2022 made in W.M.P. No.
34342/2019 in W.P. No. 29473/2019)
6. M/s. Tamil Nadu Government Nursing Tutors Association
Rep by its Secretary N. Balasubaramanian
No. 10 Prema Avenue, Kambar Street
Manthoppu, New Velammal Town
Thirumullaivoil, Chennai 62.



(R6 impleaded vide order dated 28.01.2022
made in W.M.P. No. 36708/2019 in W.P. 29743/2019)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order passed by the respondent in Notification No.288/NC/2019 dated 04.10.2019 and quash the same and further direct the respondent to conduct the election as per the instruction/conditions stipulated in the original notification dated 20.09.2019 by considering the renewal of registration as on 20.09.2019.

For Petitioner : Mr.P.Manikandan

For Respondents : Mr.S.Sivalkumar for R1

: Mr.S.S.Rajes for R2 & R6

: Mr.S.L.Sundaram for R3 to R5

O R D E R

This writ petition has been filed by a member of the Tamil Nadu Nurses and Midwives Council. The petitioner has been regularly and periodically renewing his registration to the council and holds a valid registration till 26.06.2024. Accordingly he has a valid vote for the elections and other procedures carried out by the council.

2. The challenge in the writ petition is to a notification issued by the Registrar and Returning Officer of the Tamil Nadu Nurses and Midwives Council relaxing the condition that renewal of registration as a registered Nurses (RN) registered Midwives (RM) was not mandatory to file a nomination and to vote in the ensuing elections.

3. Pending the Writ Petition, the Tamil Nadu Government Nurses Association, S.Kaliammal, S.Kannan, R. Jeeva Stalin and the Tamil Nadu Government Nursing Tutors Association were impleaded as R2 to R6 respectively, and have also been heard. Out of the newly impleaded respondents, two are associations, of which some of the members have, pending Writ Petition, renewed their registrations to the first respondent council.

4. On 18.10.2019 when the matter had come up for admission, a learned Single Judge had granted a stay of the impugned order till the next date of hearing clarifying that if the first respondent intended to proceed with the election



process, the voters and the candidates should only be the persons whose registration as Nurses and Midwives has been renewed in accordance with the statutory provisions.

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5. Regulation 59 (3) of the Indian Nursing Council (Conduct of Business) Regulations, 2009 framed under Section 16 (1) of the Indian Nursing Council Act, 1945 (in short '2009 Regulation') provides as follows:-

"The State Council shall renew the registration of Nurses after every five years provided the registered person completes 150 hours of continuing nursing education during the above 5 year period. In addition to the above the State Council would also register higher qualification of persons who are registered with particular State Nursing Councils."

6. Despite this benefit having been granted to the first respondent as early as in October 2019, the Council did not proceed to take advantage of the same and conduct the election. As a result there has been a stalemate in the conduct of election, and no progress till date.

7. The Council comprises 18 members, out of which 5 are ex-officio, 7 are drawn from the Medical Council of India, 1 is a medical practitioner and 5 are elected members. The posts are required to be filled in accordance with the stipulation under Regulation 59 (3) of 2009 Regulation extracted above and as at present, there are two vacancies, for which elections are stated to be pending till date.

8. Pending Writ Petition, 1st respondent Council has passed a resolution on 18.03.2022 in relation to the subject matter, reading as follows:-

DECISION:

Council members had a detailed discussion on "Conduct of election under the Tamilnadu Nurses and Midwives Act 3(1)(h) - RN&RM category" and noted that this election has been published/announced in 2019 and nearly 3 years period going to be over. So, Council members unanimously decided to call for a fresh election with the additional grace period of 6 months to be given to the registrants to complete their renewal of registration.'



9. This Court is of the considered view that the resolution that is passed is a fair one insofar as it takes a mid-path bearing in mind the grievances of those diligent in renewing registration and by those who have been errant in not doing so. As a grace period of six months has been extended, those who are desirous of renewal can do the needful within that time.

10. In light of the resolution that is now passed, no further orders are necessary in this writ petition and recording this resolution which the petitioner is satisfied with, this writ petition is closed. Consequently connected miscellaneous petitions are closed. There shall be no order as to costs.

11. It is clarified that the period of six months stipulated in Resolution No.209 will run from the date of resolution, being 18.03.2022.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nst/sl

To

1. The Registrar and Returning Officer,
Tamil Nadu Nurses and Midwives council,
Santhome High Road,
Chennai - 04.
2. The General Secretary
Tamil Nadu Government Nurses Association
K.Valarmathy, Office at Madras Medical College,
Near Park Town Station, Park Town, Chennai - 600 003.

+1 CC to Mr.P.Manikandan, Advocate sr 20929
+1 CC to Mr.S.Sivakumar, Advocate sr 21292

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&
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AD(CO)
SP(05/05/2022)