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W.P.No.31779 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.P.No.31779 of 2022

R.Benjamin

.. Petitioner

Versus

1. The Chairman, Teller Committee,
Madras High Court Advocates Association,
Chennai – 600 104
2. The Secretary, Teller Committee,
Madras High Court Advocates Association,
Chennai – 600 104.
3. Chairman & Members,
Election Committee,
Madras High Court Advocates Association,
Chennai – 600 104.
4. The Secretary,
Bar Council of Tamilnadu and Pudhucherry,
Chennai – 600 104.
5. The Manager,
Madras High Court Advocates Association,
Chennai – 600 104.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents forthwith to consider the petitioner representation dated 21.11.2022 and 23.11.2022 and pass such further orders.

For Petitioner : Mr.M.Lourdu Savio
for Dr.T.K.Sathiaseelan

For R1 & R2 : Mr.Kabir, Senior Counsel
For R4 : Mr.C.K.Chandrasekar
For R5 : Mr. Mohana krishnan

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

Heard the learned counsel appearing for all the parties and perused the materials placed before this court.

2.According to the petitioner, he is a member of the Madras High Court Advocates Association (MHAA) and his Enrolment Number is 284/2015. It is stated that as per the direction of this court, the election of the MHAA is scheduled to be held on 09.01.2023, after publishing the eligible voters list and following due procedure in the Bye-laws. Accordingly, the respondents 1 and 2 conducted meeting of the Teller Committee, in which, discussions and deliberations took place and resolution was passed, in respect of various issues, including the eligible list of members, as per which, only the resident members



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who were admitted as members till 2016 would be given an opportunity to cast their vote in the ensuing election. Aggrieved over the same, the petitioner made representations dated 21.11.2022 and 23.11.2022 to the respondents to set aside the same and pass resolution afresh. Finding no response on the same, he has come up with this writ petition to issue a writ of mandamus directing the respondents 1 and 2 to dispose of the said representations.

3.It is further stated by the petitioner that according to Article 9(a) of the Bye-Laws, the resident members who have completed two years at the Bar and who are residing or carrying on their profession within the limits of the Corporation of Chennai, are eligible to vote. However, the members with the said criteria, would be deprived from availing the opportunity of voting in the election, in view of the resolution so passed, which is arbitrary, illegal and violative of the provisions of the Bye-laws.

4.On the other hand, the respondents 1 and 2 filed a status report, wherein, it is *inter alia* stated that pursuant to the order dated 14.10.2022 by this court in Review Application No.167/2021, the Teller Committee proceeded with the election activities with effect from 17.10.2022. They conducted meeting and



discussed various issues raised by the members, including waiver of subscription during the covid period and the consequent eligibility of members to vote in the election. The problems pertaining to the receipt of subscription were also discussed and sorted out. Thereafter, the Teller Committee has been engaged in the process of conducting election of the MHAA. Ultimately, with respect to the claim of the petitioner, it is stated in paragraphs 12 and 13 as follows:

“12.As per Bye-law No.9(f), the power to admit new members solely vests with the MHAA council. As per records, the Council had not admitted any new members after 2016. Hence, from 2017, those members to whom MHAA cards were issued, subscriptions received from them and availing the other services of MHAA cannot be treated as members for the purposes of voting in the scheduled elections. Consequently, the committee is not in a position to add new members who have enrolled beyond the year 2016 for want of approval by the MHAA Council. Further, it is beyond the scope of the Teller Committee, since the power to admit members vests with the Council alone, as per the governing bye-laws.

13.After the election process is completed, it is open to the newly elected office bearers to pass a necessary resolution in terms of the Bye-laws admitting the new members.”

5.In the light of the averments made in the status report, which has properly addressed the petitioner's grievance, this court is of the opinion that no further order needs to be passed in this writ petition, except directing the respondents 1 and 2 / Teller Committee to proceed with the election process and



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complete the same amicably, in accordance with the existing Bye-laws of the MHAA, within the time stipulated by this court by order dated 14.10.2022 in Review Application No.167/2021.

6. With the aforesaid direction, this writ petition stands disposed of. No costs.

[R.M.D., J.]

[J.S.N.P., J.]

09.12.2022

Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 12.12.2022

To

1. The Chairman, Teller Committee,
Madras High Court Advocates Association,
Chennai – 600 104,
2. The Secretary, Teller Committee,
Madras High Court Advocates Association,
Chennai – 600 104.
3. Chairman & Members, Election Committee,
Madras High Court Advocates Association,
Chennai – 600 104.
4. The Secretary, Bar Council of Tamilnadu and Pudhucherry,
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5. The Manager, Madras High Court Advocates Association,
Chennai – 600 104.

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