



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2022

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.238 of 2017
and W.M.P.Nos.256 & 257 of 2017

1.N.Manickam
2.D.Gunasekaran

...Petitioners

Vs

1.The Registrar of Societies,
Chennai Central,
Bharathi Salai,
Chennai - 600 014.

2.The Inspector General of Registration,
100, Santhome High Road,
Santhome, Chennai - 600 028.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ Certiorarified Mandamus, calling for the records of the first respondent comprised in order No.K.Dis.6860/D2/2016-2 dated 22.09.2016 and consequently direct the first respondent to register the association by name "Tamil Nadu Retired Officials' Association" and issue certificate of Registration.

For Petitioners : Mr.Sathish Parasaran
Senior Counsel
for Mr.R.Parthasarathy

For Respondents : Mr.R.Vigneshwaran
Government Advocate (Reg)

O R D E R

This Writ Petition has been filed by the petitioner, seeking for the issuance of Writ Certiorarified Mandamus, calling for the records of the first respondent comprised in order No.K.Dis.6860/D2/2016-2 dated 22.09.2016 and consequently direct the first respondent to register the association by name "Tamil Nadu Retired Officials' Association" and issue certificate of Registration.



2.The case of the petitioners is that, initially, the Society by name "Retired Officials' Association" was registered in the year 1957 in Serial No.42/1957 and the said Association was struck off and dissolved since the members of the Association were failed to file the annual statements. Subsequently, a notice was issued to the petitioner declaring that the Society by name "Retired Officials' Association" was struck off from the Register of Societies and the said notice was published in Tamil Nadu Gazette Part VI Section I Supplement Page No.6 on 23.04.1980. Thereafter, the petitioners formed a new Association by name "Tamil Nadu Retired Officials' Association" and placed the papers before the respondents for registration. However, the respondents refused to register the same and passed impugned order stating that the Society under identical name is existing in Serial No.42/1957.

3.The learned Senior Counsel for the petitioner would submit that, earlier the Society was formed by the same "Retired Officials' Association" and the same was struck off. Once the name of the Society was struck off and dissolved, there is no prohibition for forming new Association by the member of the society which was struck off. Even the learned Senior Counsel for the petitioner referred Section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975 and submitted that no society can be registered with identical or nearly resembles name of the society in existence, but, no Society is existing in the identical name and the respondents without considering all these aspect have rejected the petitioners' request.

4.Per contra, the learned Government Advocate appearing for the respondents referred the counter affidavit and submitted that identical society was already registered and it is also in existence, therefore, the petitioner request was rejected.

5.In reply, the learned Senior Counsel for the petitioner submitted that the said Society is not in existence, if it is in existence there is prohibition under Section 9(1)(c) of the Act. However, in the present case, the Society was dissolved and in this regard a notification was also issued by the Tamil Nadu Gazette Part VI Section I Supplement Page No.6.

6.Heard the learned Senior Counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.Upon hearing and perusal of the records, it appears that, initially, the petitioners formed the Association in the name "Retired Officials' Association", which was registered in Serial No.42/1957. The said Association functioned for two decades and since the office bearers failed to file the annual statement,



the respondents issued a notice and thereafter, the Association was struck off with effect from 23.04.1980. Once the Society is struck off, it cannot function anymore.

8. The first respondent in the counter has categorically stated that in the event the name of the registered Society is struck off from the Register of Societies in terms of Section 44(8) of the Tamil Nadu Societies Registration Act, 1975, it cannot function any more. He further stated that even in spite of the struck off, the said Society has been functioning. Therefore, the first respondent issued the proceedings in No.17110/E3/2007, on 26.11.2008, to wind up the said Society. However, the said Society has made a representation on 21.04.2008. The said proceedings dated 26.11.2008 was challenged in W.P.No.29416 of 2008 and later the same was withdrawn. When the name of the Society was struck off in the Register of the respondents, as per Law, the Society is nonexistence. Therefore, the name of the said Society will be made available to the public to incorporate any other society in the said name.

9. Therefore, this Court does not find any impediment for the respondents to register the Society as requested by the petitioners under the name and style of 'Tamil Nadu Retired Officials Association'. The impugned order was passed without application of mind. As long as the Society name is struck off from the Register of the respondents and the said Society should not function anymore. Therefore, the impugned order passed by the first respondent dated 22.09.2016 is liable to be quashed. Accordingly, the same is quashed. Further, this Court directs the first respondent to consider the petitioner's application for registration of Society under the name and style of the 'Tamil Nadu Retired Officials Association' and issue the certificate of registration within a period of four weeks from the date of receipt of a copy of this order.

10. In the result, this Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of Societies,
Chennai Central,
Bharathi Salai,
Chennai - 600 014.

2. The Inspector General of Registration,
100, Santhome High Road,
Santhome, Chennai - 600 028.

+1 cc to Mr. R. Parthasarathy, Advocate Sr. NO. 58774

+1 cc to Government Pleader Sr. NO. 6436

W.P.No.238 of 2017

and

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PMK (CO)

A.SK(11/03/2022)