



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)Nos.175 and 176 of 2022

and

W.M.P. (MD)Nos.129 and 3537 of 2022

WEB COPY

W.P. (MD)No.175 of 2022:-

Ramamoorthi

... Petitioner

vs.

- 1.The Inspector General of Registration,
No.100, Santhome High Road, Chennai - 600 028.
- 2.The District Registrar (Societies) Administration,
District Registrar Office, Sivagangai, Sivagangai.
- 3.The Tahsildar - cum - 2nd Class Executive Magistrate,
Paramakudi, Ramanad District.
- 4.The Inspector of Police,
Paramakudi Town Police Station, Sivagngai District.
- 5.Paramakkudi Vaniya Urvin Muryarkalin Pothu Sabai,
(S.O.C.No.30/73), represented by its Secretary,
Ramanad District.
- 6.Subramanian
- 7.Deivendran
- 8.Chellam
- 9.S.Ratha Krishnan
- 10.R.Saravanan
- 11.Kesavan
- 12.Raja
- 13.Chellam
- 14.Naganathan
- 15.Balakrishnan
- 16.Venkatachalapathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned election notification dated 08.12.2021 issued by the sixth respondent and the candidate list dated 25.12.2021 published by the sixth respondent for the election will be held on 09.01.2022 and to quash the same as illegal, arbitrary and without jurisdiction and furthermore to direct the District Registrar (Societies) Administration, the second respondent herein to conduct the election by way of issuing fresh



For Petitioner :Mr.R.Rajaraman
For R1 to R4 :Mr.J.John Rajadurai
Government Advocate
For R5 and R8 :Mr.Mahaboob Athiff
For R6 :Mr.R.Gandhi
For R7 and R9 to R16 :Mr.A.Arumugam

W.P. (MD)No.176 of 2022:-

Ramamoorthi ... Petitioner

vs.

1.The Inspector General of Registration,
No.100, Santhome High Road, Chennai - 600 028.

2.The District Registrar (Societies) Administration,
District Registrar Office, Sivagangai, Sivagangai.
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Inspector General of Registration and the District Registrar (Societies) Administration, Sivganga, the respondents 1 and 2 herein, to dispose the proceedings vide document No.2596/Aa2/2012 dated 14.11.2013 originated from the order passed by the District Registrar (Societies) Administration vide Na.Ka.No.5063/Aa2/2009 dated 16.09.2010 under 36(1) of the Tamil Nadu Societies Registration Act 1975 (Act 27 of 1975).

For Petitioner :Mr.R.Rajaraman
For R1 and R2 :Mr.J.John Rajadurai
Government Advocate

C O M M O N O R D E R

W.P. (MD)No.175 of 2022 has been filed challenging the impugned election notification, dated 08.12.2021 issued by the sixth respondent and the candidate list, dated 25.12.2021 published by the sixth respondent for the election scheduled to be held on 09.01.2022.

2.W.P. (MD)No.176 of 2022 has been filed for a Mandamus seeking for a direction to the Inspector General of Registration and the District Registrar (Societies) Administration, Sivagangai District, the respondents 1 and 2, to dispose of the proceedings vide document No.2596/Aa2/2012 dated 14.11.2013 originated from the order passed by the District Registrar (Societies) Administration vide Na.Ka.No.5063/Aa2/2009 dated 16.09.2010 under 36(1) of the Tamil Nadu Societies Registration Act, 1975.



3. In both the Writ Petitions, the petitioner is aggrieved by the financial irregularities alleged to have been committed by the office bearers of the Paramakkudi Vaniya Urvin Muryarkalin Pothu Sabai, which is a registered Society under the Societies Registration, Act 1975.

4. Since the grievance of the petitioner is one and the same, though the relief sought for in both the Writ Petitions are different, both the Writ Petitions are disposed of by a common order.

5. The petitioner is aggrieved by the non initiation of further proceedings against the respondents 6 to 16 in W.P.(MD)No.175 of 2022. Even though by proceedings, dated 14.11.2013 of the second respondent, the second respondent has passed an order to enquire the complaint in respect of the financial irregularities alleged to have been committed by the office bearers of the subject society, no steps have been taken by the official respondents till date.

6. According to the petitioner, his nomination for participating in the election, which is the subject matter of challenge in W.P. (MD)No.175 of 2022, was arbitrarily and illegally rejected. According to him, the present office bearers of the society are committing financial irregularities and therefore, the rejection of the petitioner's nomination by the election committee, who are also involved in financial irregularities, is illegal. According to him, in such circumstances, he has challenged the impugned election notification for the welfare of the subject society.

7. The subject society, which is the fifth respondent in W.P. (MD)No.175 of 2022 has filed a counter affidavit denying the allegations levelled by the petitioner. According to them, the present Writ Petition is not maintainable in view of the fact that the election process has already commenced and it is settled law that at this stage, a Writ Petition is not maintainable. The petitioner, having participated in the election by filing his nomination, which has been rejected subsequently, cannot challenge the election notification by filing a Writ Petition. Having also not challenged the rejection of his nomination, the present Writ Petition is not maintainable, as even if the Writ Petition is allowed, the petitioner will not be benefited.

8. Insofar as W.P.(MD)No.176 of 2022, is concerned, where the petitioner has sought for a Mandamus, the subject Society is not made as a party respondent.

9. Heard Mr.R.Rajaraman, learned Counsel for the petitioner in both the Writ Petitions, Mr.J.John Rajadurai, learned Government Advocate appearing for R1 to R4 in W.P.(MD)No.175 of 2022 and R1



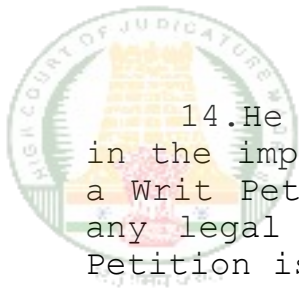
Counsel for R5 and R8 in W.P.(MD)No.175 of 2022, Mr.R.Gandhi, learned Counsel for the sixth respondent and Mr.A.Arumugam, learned Counsel R7 and R9 to R16 in W.P.(MD)No.175 of 2022.

10.The learned Counsel for the petitioner drew the attention of this Court to the order, dated 05.05.2011 passed by the District Registrar (Societies) Administration, under Section 36(1) of the Societies Registration Act, under which the subject society's registration was cancelled. Thereafter, he also drew the attention of this Court to the appellate order, dated 26.08.2011 passed by Inspector General of Registration, under which the earlier order passed by the District Registrar, dated 05.05.2011 was set aside.

11.After referring to the said order, he would submit that though the cancellation of the registration of the subject society was set aside, the enquiry, as regards the complaints alleged to have been given against the office bearers of the society, was directed to be continued, as seen from the order, dated 26.08.2011 passed by the Inspector General of Registration and therefore, according to him, without conducting a proper enquiry, as against the irregularities committed by the office bearers of the subject society, no election can be proceeded with. According to him, the subject election has been conducted by the election committee, represented by its members, who are also facing allegation of financial irregularities and therefore, the election cannot be proceeded with. According to the learned Counsel for the petitioner, the nomination of the petitioner was rejected by the election committee, who are also facing financial irregularities. According to him, only for the benefit of the society, the present Writ Petitions have been filed.

12.The learned Counsel for the petitioner also drew the attention of this Court to the bye-laws of the subject society and in particular, he drew the attention of this Court to Rule 24.11.10 of the bye-laws of the subject society and according to him, the said by-law has not been adhered to by the society and no enquiry has been conducted with regard to the allegations levelled by the petitioner against the office bearers of the subject society.

13.*Per contra*, Mr.Mahaboob Athiff, the learned Counsel for the respondents 5 and 8 in W.P.(MD)No.175 of 2022, would reiterate the contents of the counter affidavit filed in W.P.(MD)No.175 of 2022. He would submit that the present Writ Petition is not maintainable in view of the fact that the election process has already commenced and it is settled law that once election process has commenced, the same cannot be interfered with by a judicial forum. According to him, only when the election processes are completed and results are declared and notified, any person aggrieved by the conduct of the election or declaration of results can challenge the same in the manner known to him under law.



14.He would also submit that the petitioner having participated in the impugned election and having filed his nomination, filing of a Writ Petition is not permissible under law. He has not suffered any legal injury and he will not be benefited, even if the Writ Petition is allowed, as his nomination has already been rejected.

WEB COPY

15.He would also submit that insofar as W.P.(MD)No.176 of 2022 is concerned, the subject society is not a party respondent and only in such circumstances, counter affidavit is not filed by the subject Society. According to him, being a necessary party in W.P.(MD) No.176 of 222, the subject society is a necessary party for the purpose of adjudicating the Writ Petition in W.P.(MD)No.176 of 2021. The petitioner has chosen not to make the subject society as a party respondent and therefore, the said Writ Petition is not maintainable for non joinder of necessary parties.

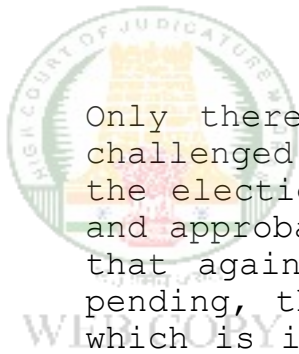
16.Admittedly, the proceedings, based on which the present Writ Petitions have been filed, pertain to the year 2011. Earlier, by order, dated 05.05.2011, the District Registrar (Societies) Administration, has acted upon on a complaint and cancelled the registration of the subject Society under Section 36(1) of the Societies Registration Act, 1975. Thereafter, the aggrieved parties preferred a statutory appeal before the Inspector General of Registration, Chennai -600 028 and by order, dated 26.08.2011, the earlier order, dated 05.05.2011 passed by the District Registrar, was set aside and the cancellation of the registration of the subject Society was cancelled by the Inspector General of Registration.

17.The petitioner has also relied upon an observation given in the order, dated 26.08.2011 passed by the Inspector General of Registration, that enquiry can be proceeded with. However, as seen from the sequence of events, thereafter, right from 26.08.2011 onwards, no progress has been made with regard to the complaint lodged against the then office bearers of the subject society, who are alleged to have been committed financial irregularities.

18.The grievance of the petitioner in these Writ Petitions is that no further progress took place after the order, dated 26.08.2011 passed by the Inspector General of Registration, referred to supra. As seen from the sequence of events, from 26.08.2011 onwards, though the petitioner has given complaint on and off, he has not taken effective steps to proceed with his complaint. Having given a complaint against the financial irregularities alleged to have been committed by the then office bearers of the subject society, the petitioner has also participated in the election conducted by the subject society. This would show his dubious conduct.

19.In the impugned election also, the petitioner has filed his nomination and the same has been rejected by the respondents subsequently.

<https://www.mca21.com.in/howtofile>



Only thereafter, he has filed these Writ Petitions. He has not challenged the rejection of his nomination, but has challenged only the election notification. The petitioner cannot blow hot and cold and approbate and reprobate. It is also contended by the petitioner that against whom the financial irregularities complaint is still pending, their nominations have been accepted, which is illegal and which is in violation of the bye-laws of the subject society. The said issue cannot be raised at this stage, since election process has already been commenced. If at all, the petitioner is having any grievance with regard to the acceptance of nomination of some of the members, it can be adjudicated only after the election process are completed and the results declared and notified.

20. For the foregoing reasons, there is no merit insofar as W.P. (MD) No. 175 of 2022 is concerned. Accordingly, this Writ Petition is dismissed. No costs.

21. Insofar as the connected Writ Petition, ie., W.P. (MD) No. 176 of 2022 is concerned, since financial irregularities is alleged to have been committed by the office bearers of the subject society, this Court cannot shut its eyes to the said complaint. However, since no representation has been given by the petitioner, as seen from the affidavit filed in support of the Writ Petition, the petitioner will have to give a fresh representation to the official respondents for the said purpose.

22. Accordingly, the petitioner is directed to give a fresh representation to the official respondents to act upon the order passed by the Inspector General of Registration, Chennai - 600 028, dated 26.08.2011 within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the second respondent shall pass final orders on the petitioner's representation within a period of eight weeks thereafter, after affording a fair hearing to the petitioner and other necessary parties including the present office bearers of the subject society, whom the second respondent deems fit to enquire. Accordingly, the Writ Petition in W.P. (MD) No. 176 of 2022 is disposed of in terms of the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

- 1.The Inspector General of Registration,
No.100, Santhome High Road, Chennai - 600 028.
- 2.The District Registrar (Societies) Administration,
District Registrar Office, Sivagangai, Sivagangai.
- 3.The Tahsildar - cum - 2nd Class Executive Magistrate,
Paramakudi, Ramanad District.
- 4.The Inspector of Police,
Paramakudi Town Police Station, Sivagngai District.

+2 CC to M/s.R.RAJARAMAN, Advocate (SR-15931 & 15932[F] dated 01/04/2022)

+2 CC to M/s.MAHABOOB ATHIFF, Advocate (SR-16015 & 16019[F] dated 01/04/2022)

+1 CC to M/s.SPL GP (SR-16397 & 16398[F] dated 04/04/2022)

Order made in
W.P. (MD) Nos.175 and 176 of 2022
31.03.2022

NSN(CO)
TR(11.04.2022) 7P 10C