



W.P(MD)No.14596 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.14596 of 2013

and

M.P(MD)Nos.1,2 and 4 of 2013

The Dr.Jahir Hussain College Society,
Represented by its Secretary
V.M.Jabarullakhan.

... Petitioner

Vs.

1.The District Registrar cum
Registrar of Societies,
Sivagangai District,
Sivagangai.

2.The Enquiry Officer/
The Sub Registrar,
Paramakudi,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the first respondent bearing Na.Ka.No.3226/A2/2012 dated 01.04.2013 and the consequential enquiry report in respect of the petitioner's Society dated 09.07.2013 submitted by the second respondent and quash the same.



W.P(MD)No.14596 of 2013

For Petitioner : Mr.M.Gnana Gurunathan
For R1 & R2 : Mr.K.S.Selva Ganesan
Additional Government Pleader

ORDER

The present writ petition has been filed by a Society challenging the appointment of an Enquiry Officer under Section 36 of the Societies Registration Act and the report filed by the said Enquiry Officer.

2. The Enquiry Officer appointed under Section 36 of the Societies Registration Act has submitted his report on 09.07.2013. The Enquiry Officer has concluded that no further action need to be initiated as against the petitioner/Society under Section 36 of the Societies Registration Act. However, the Enquiry Officer has proceeded to recommend appointment of a Special Officer to administer the petitioner/Society. This recommendation for appointment of Special Officer is under challenge in the present writ petition.



W.P(MD)No.14596 of 2013

3. The learned counsel for the petitioner submits that once the Enquiry Officer arrives at a finding that no further action need to be initiated as against the petitioner/Society, the action should have been dropped there. The Enquiry Officer has exceeded his jurisdiction in recommending for appointment of a Special Officer to the petitioner/Society. He further contended that the appointment of Special Officer as contemplated under Section 34-A of the Societies Registration Act lies solely with the Government. The Enquiry Officer or the District Registrar has no jurisdiction, whatsoever to initiate proceedings under Section 34-A or to recommend such proceedings. Hence, he prayed for setting aside the order impugned in the writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the Enquiry Officer has filed a detailed report pointing out various irregularities and mismanagements committed by the petitioner/Society. Though the said irregularities or mismanagements may not attract Section 36 of the Societies Registration Act, certainly it may require the supersession of the Executive Committee of the petitioner/Society. Hence, there is nothing wrong in the report of the Enquiry Officer, in recommending for



W.P(MD)No.14596 of 2013

the appointment of Special Officer to take over the administration of the petitioner/Society. He further contended that as a responsible officer, under the Societies Registration Act, he has got every right to record his opinion for the appointment of a Special Officer to the petitioner/Society.

5. I have carefully considered the submissions made on either side.

6. Though an enquiry was initiated as against the petitioner/Society under Section 36 of the Societies Registration Act, the Enquiry Officer has ultimately found that there is no requirement for initiating any further action as contemplated under Section 36 of the Societies Registration Act. Hence, that portion of the finding of the Enquiry Officer is in favour of the writ petitioner. However, he has also proceeded to recommend that a Special Officer may be appointed to take over the administration of the Society. It is needless to point out that the power to appoint a Special Officer after superseding the committee of a society lies exclusively with the Government. Hence, mere recommendation of the Enquiry Officer is not going to influence any decision that is to be taken by the Government. In case, if the Government feels, they are always at liberty to initiate action under



W.P(MD)No.14596 of 2013

Section 34-A independently on their own. Mere recommendation in the enquiry report with regard to appointment of a Special Officer cannot said to be in any way illegal or against the provisions of Section 36. In fact, the Enquiry Officer has only proposed an alternative action as against the petitioner/Society.

7. In view of the above said facts, I do not find any illegality or infirmity in the enquiry report of the second respondent. With the above said clarification, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.09.2022

Index : Yes / No
Internet : Yes / No
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To

1.The District Registrar cum
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2.The Enquiry Officer/
The Sub Registrar,
Paramakudi,
Sivagangai District.

R.VIJAYAKUMAR ,J.



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W.P(MD)No.14596 of 2013

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