



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2022

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .Nos.7943 and 8095 of 2012

and

M.P(MD)Nos.2,2,3 and 3 of 2012

W.P(MD)No.7943 of 2012:

A.Namasivayam ... Petitioner

Vs.

1.The District Registrar,
Tirunelveli.

2.The Educational Society,
Tirunelveli,
Represented by its President,
Madurai Diraviyam Thyaumanavar Hindu
College Higher Secondary School Campus. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent pertaining to the order bearing serial number 14/12 dated 28.04.2012, approving of the amendment of the rule 10 of the bye law with regard to the insertion of "expect employees and ex-employees of the society, College, Higher Secondary School and any of the educational institution" and quash the same and consequently direct the first respondent from in any way implementing the said amendments carried out in the bye-laws of the second respondent society.

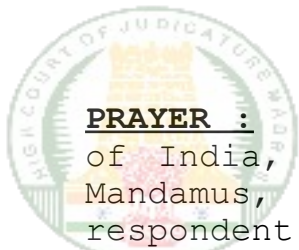
W.P(MD)No.8095 of 2012:

S.Thiruramalingam ... Petitioner

Vs.

1.The District Registrar,
Tirunelveli.

2.The Educational Society,
Tirunelveli,
Represented by its President,
Madurai Diraviyam Thyaumanavar Hindu
College Higher Secondary School Campus. ... Respondents



PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent pertaining to the order bearing serial number 14/12 dated 28.04.2012, approving of the amendment of the bye laws and consequently direct the respondents not to implement the said amendments carried out in the bye-laws of the second respondent society.

For Petitioner : Mr.N.Tamilmani
for Mr.P.Natarajan
(In W.P(MD)No.7943 of 2012)
S.C.Herold Singh
(In W.P(MD)No.8095 of 2012)
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
for R1
Mr.V.Meenakshi Sundaram
for Mr.D.Nallathambi
for R2

ORDER

Both the writ petitions have been filed challenging the impugned Act of the Registrar of Society, under which the said authority has approved the amendments to the bye laws of the society which were passed by the general body of the society.

2. According to the petitioners, the general body was not convened with proper notice and there was no proper coram in the said meeting for passing the said amendments. The learned counsel for the petitioners has further contended that the amended bye laws presents the ex-employees and present employees of the college from becoming members of the society. Since it creates a class of employees who are prohibited from becoming a member of the society, the said bye laws are in violation of the statutory provisions.

3. Per contra, the learned counsel for the second respondent had contended that the amendment in the bye laws were carried out only as per the wishes of the majority in the general body meeting and the apporval of the said amendment is only a ministerial act. The learned counsel for the second respondent had further contended that the petitioners, who are already members of the society have no *locus standi*, whatsoever, which restricts new members into the society based upon their employment in the college.

4. The learned Additional Government Pleader for the first respondent had contended that whatever amendment that have been passed in the general body meeting of the society will be approved by the District Registrar, unless they are found to be in violation of the statutory provisions of the Societies Registration Act. That



apart, approval of the bye laws of the society is only a ministerial act, which will not warrant the interference of this Court under Article 226 of the Constitution of India.

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

6. Admittedly, the writ petitions have been filed challenging an approval of the amendments to the bye laws of the second respondent society. The said amendments have been proposed by the majority of the general body of the second respondent society. Since the first respondent statutory authority found these amendments to be not in violation of the statutory provisions of the Societies Registration Act, he has chosen to approve the same. The approval of the amendments to the bye laws constitutes only a ministerial act. Unless the District Registrar finds that the said bye laws are in violation of the statutory provisions of the Societies Registration Act, he has no role whatsoever to interpret the amendments or refusing to approve the amendments. Hence, the ministerial act of the first respondent herein in approving the amendments of the bye-laws cannot be found fault with.

7. However, if the petitioners feel that the proposed amendments affect their rights, they could very well approach the civil Court to redress their grievance. The bye laws is a contract between the members of the society and any alteration in the said contract is by the majority of the members. Hence, if the petitioners feel that the amendments have been carried out in violation of such contract, they are at liberty to ventilate their grievances before the appropriate civil Courts.

8. Accordingly, both the writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

gbg



To

The District Registrar,
Tirunelveli.

+1cc to M/S.S.C.HEROLD SINGH, Advocate, SR.No.27025 DATED:21.06.2022

+1cc to M/S.SPL GP, SR.No.27102 DATED:21.06.2022

Order made in
W.P. (MD) .Nos.7943 and 8095 of 2012
20.06.2022

NSN (CO)

GC (01.07.2022) 4P 4C