



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.5676 of 2022

Sathya Moorthy

... Petitioner

Vs.

The Secretary,
The Government of Tamil Nadu,
Department of Registration,
Fort St.George,
Chennai.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to consider and pass final orders on the petitioner's statutory application under Section 34-A of the Tamil Nadu Societies Registration Act 1975, within the time stipulated by this Court.

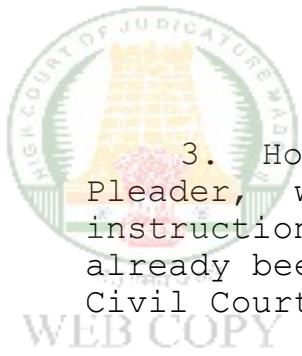
For Petitioner : Mr.Mahaboob Athiff

For Respondent : Mr.S.Shanmugavel,
Additional Government Pleader.

ORDER

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondent to consider the petitioner's representation seeking for appointment of a special officer for Madurai Keela Sandapettai Nadar Uravinmurai, a Society registered under the Tamil Nadu Societies Registration Act, 1975.

2. According to the petitioner, the office bearers of the said Society have committed various irregularities and in such circumstances, he has given a representation for appointment of a special officer as per the provisions of Section 34-A of the Tamil Nadu Societies Registration Act, 1975. Along with the Writ Petition, the petitioner has filed representation given by him to the respondent requesting for appointment of a special officer. Since the said representation has not been considered till date, he has filed this Writ Petition.



3. However, Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the respondent, on instructions, would submit that the petitioner's representation has already been considered on 28.01.2022 requesting him to approach the Civil Court.

4. Since the petitioner's representation has already been considered and the Government has taken a conscious decision that no special officer need be appointed under Section 34-A of Tamil Nadu Societies Registration Act, 1975, the only remedy available to the petitioner is to approach the Civil Court.

5. Section 34-A of the Societies Registration Act reads as follows:

"34-A. Supersession of committee.-(1) (a) If, in the opinion of the Government,-

(i) the committee of any registered society is not functioning properly, or

(ii) the affairs of any registered society are mismanaged; or

(iii) the registered society's activities are not in furtherance of the objects of the society, or

(iv) the committee of any registered society has contravened any of the provisions of this) Act or the rules made thereunder, or wilfully disobeys or wilfully fails to comply with any lawful order or direction issued under the provisions of this Act or the rules made thereunder,

the Government may, after giving the committee an opportunity of making its representations, by order in writing, supersede the committee and appoint a person (hereafter in this section and in section 34-B referred to as the special officer) to manage the affairs of the society for a specified period not exceeding one year:

Provided that nothing in this clause shall prevent the appointment of the same person as special officer for two or more registered societies.

(b) The period specified in such order may, at the discretion of the Government, be extended from time to time provided that such order



shall not remain in force for more than three years in the aggregate.

(2) The special officer appointed under sub-section (1) shall, subject to the control of the Registrar and to such directions as he may, from time to time, give, have power to exercise all or any of the functions of the committee and to take such action as may be required in the interest of the societies.

(3) The Registrar may fix the remuneration payable to the special officer appointed under sub-section (1). The amount of remuneration so fixed and such other expenditure incidental to the management of the society during the period of supersession as may be approved by the Registrar shall be payable from the funds of the registered society.

(4) The special officer appointed under sub-section (1) shall arrange for the constitution of a new committee in accordance with the provisions of this Act and the rules made thereunder and the bye-laws of the registered society so that the new committee may be constituted and the members thereof come into office at the expiry of the period of appointment of the special officer.

(5) Nothing contained in this section shall be deemed to affect the power of the Registrar to order the winding up of the society under section 40.

(6) An order under sub-section (1) shall take effect from the date specified therein.

6. As seen from the aforesaid Section, it is for the Government to take a call as to whether a special officer need to be appointed to a registered Society or not. In the case on hand, despite the representation given by the petitioner, the Government has taken a conscious call that there is no necessity to appoint a special officer as per the provisions of Section 34-A of the aforesaid Act. Hence, the only remedy available to the petitioner is to approach the Civil Court.

7. Learned counsel for the petitioner also submits that liberty may be granted to the petitioner to approach the Civil Court in respect of the grievances raised by the petitioner against the subject Society. The said statement is recorded.



8. In terms of the above, this Writ Petition is disposed of by granting liberty to the petitioner to approach the Civil Court in the manner known to the petitioner under law. There shall be no order as to costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Secretary,
The Government of Tamil Nadu,
Department of Registration,
Fort St.George,
Chennai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-15564[F] dated 31/03/2022)

+1 CC to M/s.SPL GP (SR-15661[F] dated 31/03/2022)

W.P. (MD) .No.5676 of 2022
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MGJ(08.04.2022) 4P 4C