



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND**

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.400 of 2022
and C.M.P.(MD) No.4061 of 2022

P.Jeyasingh Malraj

... Appellant/Petitioner

Vs.

- 1.The Chief Educational Officer,
Tirunelveli District.
- 2.The District Educational Officer,
Tirunelveli District.
- 3.The District Educational Officer,
Vallioor, Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.
- 5.The District Educational Officer,
Thiruchendur, Thoothukudi District.
- 6.S.Thomas Walker
- 7.Anatharajan
- 8.David Stephenson

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 13.04.2022 in W.P(MD)No.20311 of 2021 and allow the Writ Appeal.

Prayer in WP(MD) . 20311/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the impugned order in Na.Ka.No.1744/Aa2/2021 dated 01.11.2021 on the file of the 3rd respondent and quash the same.



For Appellant : Mr.M.S.Sureshkumar
For Respondents 1 to 5 : Mr.S.Saji Bino
Special Government Pleader
For Respondents 6 to 8 : Mr.K.Ragatheeshkumar
for M/s. Isaac Chambers

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JUDGMENT

(Judgment of the Court was delivered by S.S.SUNDAR,J.)

This writ appeal is preferred as against the judgment of learned Single Judge in W.P.(MD) No.20311 of 2021 dated 13.04.2022.

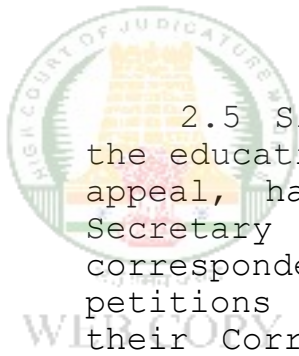
2. Brief facts, which are necessary for disposal of the writ appeal, are as follows:-

2.1 The dispute involved in this writ appeal is in respect of an election to Tirunelveli CMS-Evangelical Church Society (hereinafter referred to as "the Society"), which is a registered Society, registered under the Tamil Nadu Societies Registration Act, 1975.

2.2 The appellant claiming to be a member of the Society has challenged the election stated to have been conducted on 16.11.2019. Pursuant to the alleged election, it is an admitted fact that Form - VII submitted by the rival party viz., respondents 6 and 7 was accepted by the District Registrar. It is also admitted that the writ petition filed by the appellant challenging the acceptance of Form - VII was dismissed, however, an appeal is pending in W.A.(MD) No.1870 of 2021.

2.3 Taking into account the acceptance of Form - VII by the District Registrar, it is admitted that the third respondent in this writ appeal has acknowledged the election and approved the change of Correspondentship in favour of respondents 7 and 8 by order dated 01.11.2021. The appellant filed the writ petition in W.P.(MD) No.20311 of 2021, challenging the impugned order passed by the third respondent dated 01.11.2021.

2.4 It is admitted that the Society runs several educational institutions. Apart from the order passed by the third respondent with regard to the correspondentship of respondents 7 and 8, there were other proceedings pending before the educational authorities in respect of different institutions and despite production of Form - VII before the educational authorities, no orders were passed similar to the one challenged in the writ petition in W.P.(MD) No.20311 of 2021.



2.5 Since in respect of four other educational institutions, the educational authorities, who are not parties in the present writ appeal, have not recognized the correspondents appointed by the Secretary of the elected group, which had applied for change of correspondentship pursuant to the election, there were other writ petitions filed by the respective Correspondents for approval of their Correspondentship pursuant to the election. It is admitted that learned Single Judge by common order dated 13.04.2021 dismissed the writ petition filed by the appellant in W.P.(MD) No.20311 of 2021, giving liberty to the appellant to approach the civil Court for appropriate relief and allowed the writ petitions filed by the Secretary of the Society by issuing a Writ of Mandamus to the concerned District Educational Officers to register the persons appointed as correspondents by the Management as per the proposal submitted by the Secretary pursuant to the election dated 16.11.2019.

3. Learned counsel for the appellant submitted that a suit filed by few individuals challenging the election dated 16.11.2019 is pending before the II Additional District Munsif Court, Tirunelveli in O.S.No.207 of 2021. It is contended by the counsel that the District Registrar is not supposed to decide as to the acceptance of Forum - VII when the suit is pending. He relied upon the circular issued by the Inspector General of Registration to the effect that the District Registrars are not supposed to decide the validity of the election, when the suit challenging the election is pending. Learned counsel also relied upon few statements of one of the office bearers of the Society, who was also elected pursuant to the election dated 16.11.2019, challenging the truth and validity of the election before the statutory authorities by way of representations.

4. This Court is unable to accept the submissions of learned counsel for the appellant in view of the settled position of law reiterated by this Court in several precedents with regard to the power and jurisdiction of the District Registrars under the Societies Registration Act, 1975 while accepting Form - VII. It has been held in several cases that acceptance of Form - VII is only a ministerial act. It is true that in many cases, where elections are challenged by filing civil suits, the issue becomes infructuous after the expiry of tenure of office by the office bearers. It has now become a reality that the so-called office bearers, who were elected pursuant to the election challenged in the civil suit continues in office till their tenure without a decision on merits after parties have to report the situation 'fait accompli' to get the suit dismissed as infructuous. However, this Court in a writ petition cannot decide the validity or otherwise of the election conducted to elect the office bearers of the Society. Similarly, the District Registrar also has no power to decide whether the election was validly conducted. This position can be remedied if appropriate relief is also prayed for in the suit.



5. It is to be noted that the suit referred to by the appellant is not filed by appellant but by two other individuals. Learned counsel appearing for respondents 6 to 8 submits that the suit itself was filed by non-members of the Society, who have no locus standi to question the election. However, that can be decided by the civil Court. Since the status of the elected members or the validity of appointment of correspondents cannot be decided by the District Registrar while passing orders on the application of the elected office bearers to register Form - VII, the civil Court is the only forum which can decide not only the irregularities or the validity of election but also the interim arrangement if required regarding proper Management of the school. Hence, this Court is unable to find any fault on the order of learned Single Judge in dismissing the writ petition filed by the appellant giving liberty to approach the civil Court.

6. Since it is admitted that the suit has been filed by strangers and the appellant has not instituted any suit, it is open to the appellant either to implead himself as a party in the pending suit or file a separate suit, if he does not find comfortable by impleading himself in the suit pending before the II Additional District Munsif Court, Tirunelveli. It is also open to the appellant to seek appropriate interim prayer before the civil Court, which will be appropriate, having regard to the grievance expressed by the appellant before this Court. If the appellant file an application for impleading himself as a party in the pending suit or he file an independent suit, the civil Court is directed to dispose of the suit on merits within a period of six months from the date of institution of a fresh suit or an application, that may be filed by the appellant in the pending suit to implead himself as a party. The contesting respondents are also directed to cooperate with the civil Court for early disposal of the suit. If an interim application is filed regarding proper management or administration of the school or related matters, the same shall also be decided within a reasonable time on merits uninfluenced by the observations made in this order.

7. The Writ Appeal stands dismissed with the above directions. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sj



To

- 1.The Chief Educational Officer,
Tirunelveli District.
- 2.The District Educational Officer,
Tirunelveli District.
- 3.The District Educational Officer,
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- 4.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.
- 5.The District Educational Officer,
Thiruchendur, Thoothukudi District.

Copy to

The II Additional District Munsif,
Tirunelveli.

+1 CC to M/s.M.S. SURESH KUMAR, Advocate (SR-24328[F] dated
06/06/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-24369[F] dated
07/06/2022)

+1 CC to M/s.SPL.GP (SR-24585[F] dated 08/06/2022)

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