



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Monday, the Twenty Ninth day of August Two Thousand
and Twenty Two

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PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR
AND

The Hon`ble Mrs.Justice S.SRIMATHY

CMP (MD) Nos.5668 and 5669 of 2022
in

WA (MD) Nos.29 and 30 of 2022

CMP (MD) No.5668 of 2022

N.Kannan

... Petitioner/Appellant

Vs

1.Yadhavar Kalvi Nidhi,
A Registered Society Running Yadhava College
and Yadhava College of Education
Govindarajan Campus,
Tirupalai, Madurai,
Madurai District.
Rep. By he Hon'ble Court,
appointed Administrator
vide Judgment in WP(MD)No.14362/2019
and batch dt.31.03.2021.

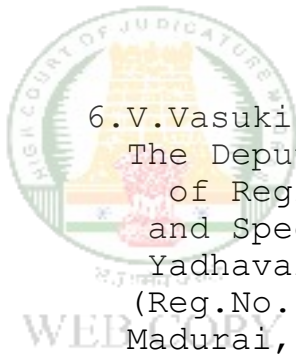
2.G.Velusamy

3.The State of Tamil Nadu,
Represented by its Principal Secretary,
Commercial Taxes and Registration (M1)
Department, Fort St. George
Chennai - 600 009.

4.The Inspector General of Registration,
Santhome,
Chennai-600 028.

5.The Deputy Inspector General
of Registration,
and Special Officer,
Yadhavar Kalvi Nidhi
(Reg.No.85/1962)

<https://www.madurai.gov.in/judis> Madurai District.



6.V.Vasuki,
The Deputy Inspector General
of Registration,
and Special Officer,
Yadhavar Kalvi Nithi
(Reg.No.85/1962)
Madurai,
Madurai District.

... Respondents/Respondents

CMP(MD)No.5669 of 2022

N.Kannan

... Petitioner/Appellant
Vs

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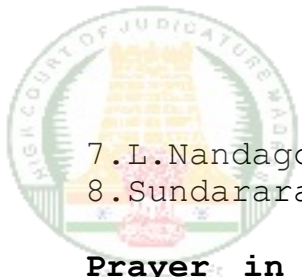
2.K.P.Navaneetha Krishnan

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Represented by its Principal Secretary,
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of Registration,
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(Reg.No.85/1962)
Madurai,
Madurai District.



7.L.Nandagopal Yadav
8.Sundararaj.M

... Respondents/Respondents

Prayer in CMP(MD)Nos.5668 & 5669 of 2022 :- Civil Miscellaneous Petition filed under Section 151 of C.P.C., to issue appropriate ORDERS directing the 1st respondent Judge-Administrator to finalise the Voters List of registered Society No.85/1962 ie., Yadhavar Kalvi Nidhi, with the 53 members on the roles under Form VI and to refrain from inducting or adding any other persons into the Voters List for the forthcoming election to the Society and pass such further or other suitable Order / Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WA(MD)Nos.29 & 30 of 2022:- Writ Appeal filed under clause 15 of the Letters Patent, to set aside the order dated 22.12.2021 passed in WMP(MD)Nos.18282 & 18286 of 2021 in WP(MD)Nos.21216 & 21218 of 2019 respectively and allow this Writ Appeal.

Prayer in WMP(MD)Nos.18282 & 18286 2021 :- Writ Miscellaneous Petitions filed under Article 226 of the Constitution of India, to permit Yadhavar Kalvi Nidhi, the petitioner herein to go for a new membership drive by inviting persons belonging to Yadava community by publication in Newspapers, to become members of the society so as to enable the Hon'ble Administrator to conduct elections to the society and further felicitation of smooth assumption of office by the duly elected office bearers of the society and thereby render justice.

Prayer in WP(MD)No.21216 of 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Directing the respondents 3 and 4 to prepare electoral list/membership list and hold elections to the Yadhavar Kalvi Nidhi (Society) strictly in accordance with the order made by the 1st respondent in letter No.8340/M1/2018-8 dated 12.4.2019 and the clarification issued by the 2nd respondent in his proceedings No.58204/G2/2012 dated 26.6.2019 under the supervision of a Former Judge of this Hon'ble Court.

Prayer in WP(MD)No.21218 of 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records relating to the impugned order issued by the 3rd respondent herein in Na.Ka.No.5678/E3/2018 dated 17.9.2019 quash the same, and further direct the 3rd respondent herein to conduct election to Yadhavar Kalvi Nidhi after incorporating the true list of deserving members from the General Body of both Yadhava Kalvi Nidhi and Yadhava College as per the report of the Inspector General of Registration dated 28.3.2012.



ORDER:- This Civil Miscellaneous Petitions coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.Isaac Mohanlal, Senior Counsel for Mr.M.Muthugeethayan, Advocate for the Petitioner, Mr.K.Rajasekaran, Advocate for the 1st Respondent, Mrs.Jasima Yasmin, Advocate for M/s.Ajmal Associates for 2nd Respondent and of Mr.K.Saji Bino, Special Government Pleader for 3rd to 6th Respondents, in CMP(MD)No.5668 of 2022 and for R2 to R5 in CMP(MD)No.5669 of 2022 and Mr.H.Arumugam for R7 in CMP(MD)No.5669 of 2022, this Court made the following order:-

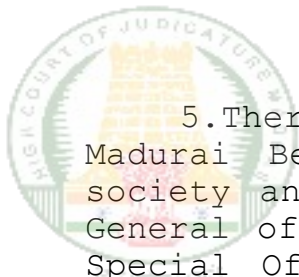
Both these Civil Miscellaneous Petitions have been filed after the disposal of W.A.(MD)Nos.29 and 30 of 2022, by judgment, dated 12.04.2022.

2.The prayer in both the Civil Miscellaneous Petitions are identical, ie., for issuing appropriate orders directing the first respondent/Judge-Administrator to finalise the voters list of registered society No.85/1962, ie., "Yadhavar Kalvi Nidhi" with the 53 members on the roles under Form-VI and to refrain from inducting or adding any other persons into the voters list for the forthcoming election to the registered society and pass suitable orders as the Court deems fit in the circumstances of the case.

Brief facts that are necessary for the disposal of these Civil Miscellaneous Petitions are as follows:

3.A society, by name, "Yadavar Kalvi Nidhi", (hereinafter referred as "the registered society") was registered in the year 1962 under the Tamil Nadu Societies Registration Act, 1860. The registered society started Yadava College in the year 1969 and was recognised as an Educational Agency of Yadava College and the College is governed by the provisions of Tamil Nadu Private Colleges (Regulation) Act, 1976. Though there were several disputes earlier, it is relevant that the disputes arose between the office bearers on one side and the members of the registered society on the other side with regard to the administration of the registered society and the college from 2018 are relevant at present.

4.The Government passed an order vide G.O.(Ms).No.96, Commercial Taxes and Registration (M1) Department, by invoking Section 34-A of Tamil Nadu Societies Registration Act, 1975. The said order was challenged by one K.P.Navaneetha Krishnan in a Writ Petition in W.P(MD)No.19782 of 2018. The subsequent Government Order vide G.O.(Ms)No.212, Higher Education (D2) Department, dated 05.09.2018, appointing a Special Officer to administer the Yadava College by invoking Section 14-A of Tamil Nadu Private Colleges (Regulation) Act, 1976, was also challenged by the said K.P.Navaneetha Krishnan, in W.P(MD)No.20242 of 2018.



5. Thereafter, several Writ Petitions were filed before the Madurai Bench of Madras High Court relating to the registered society and the college. It is also admitted that the Inspector General of Registration by an order, dated 26.06.2019 directed the Special Officer, who was appointed to administer the Society, to identify the genuine and qualified members of the society and thereafter, to conduct election. One G.Velusamy filed a Writ Petition in W.P.(MD)No.21216 of 2019 for issuance of a Writ of Mandamus to prepare electoral list/membership list and hold election to the registered society strictly in accordance with the proceedings, dated 12.04.2019 and notification, dated 26.06.2019.

6. K.P.Naveethakrishnan, filed another Writ Petition in W.P(MD) No.21218 of 2019 challenging the election notification issued by the Deputy Inspector General of Registration, who was appointed as Special Officer of the registered society and for issuing a direction to the Special Officer to conduct election to the registered society after incorporating the true list of deserving members from the General Body of both Yadavar Kalvi Nidhi and Yadava College as per the report of the Inspector General of Registration, dated 28.03.2012. Several other Writ Petitions were also filed by others before this Court raising several issues relating to the administration of the registered society.

7. All the Writ Petitions seeking various reliefs were taken up together and a learned Single Judge of this Court passed a common order, dated 31.03.2021 appointing a Retired Judge of this Court, with the following directions:

(i) *The Hon'ble Administrator would be the sole in-charge of the administration of the society (Yadhavar Kalvi Nidhi) as well as the administration of the college (Yadhava College), henceforth after assumption of charge. The Hon'ble Administrator may initiate appropriate action for bringing the finances of the society and the college under his control and supervision during the period of his administration.*

(ii) *The Hon'ble Administrator is requested to accord first priority for identification of the actual valid life members of the society and the Management Committee of the College which appear to be the bone of contention among the warring members of the society and the College Management Committee.*

(iii) *The Hon'ble Administrator may take the assistance of any official/s in the process of identification and the finalisation of the membership list of valid life time members of the society and the college committee, besides for his day-to-day discharge of his duties and functions relating to the administration. Any appointment/s made by Administrator for the said purpose would be the appointment/s approved by this Court.*



(iv) The Hon'ble Administrator may draw up a timeline and road map in the run up to the eventual conduct of elections to the society/college committee after finalisation of the valid membership list, on the basis of his assessment of the magnitude of the work involved in such exercise.

(v) All matters relating to the management of the society and the college would come under the purview of the Administrator and any interaction with the Government officials in regard to the administration of the society as well as the college would henceforth be only between the Hon'ble Administrator and the Government authorities. These would include Banking Transaction in relation to the society and the college as well.

(vi) Any communication or approval or concurrence in regard to the discharge of the duties by the Hon'ble Administrator both in respect of the society as well as the college, the State authorities are directed to interact only with the Administrator during his period of Administration.

(vii) Any legitimate grievance/s from the stakeholders of the society and the college, such grievance/s need to be projected/addressed before the Hon'ble Administrator and his decision shall be final and binding on society as well as the college.

(viii) In case any clarification is required in the discharge of duties of the Hon'ble Administrator, connected to the administration or any issue arising out of the decision making process of the Hon'ble Administrator, such clarification may be obtained by moving appropriate petition/application before this Court only, either at the instance of the Hon'ble Administrator or others concerned. The limited latitude provided herein would not mean that every decision of the Administrator must call for attention of this Court and subjected to judicial review, by derailing the process of the Hon'ble Administrator completing the exercise in terms of the mandate of this decision.

(ix) The Hon'ble Administrator after completion of the conduct of election and declaration of results and further facilitation of smooth assumption of office by the duly elected office bearers of the society and the college, may hand over the reins of administration of the society and the college to the elected members of the society and the college. The appointment/s made by the Hon'ble Administrator for assisting him in the administration is/are co-terminus with the handing



over of the administration of the newly elected office bearers of the society and the management committee of the college.

(x) The Hon'ble Administrator is at liberty to fix his monthly remuneration for himself for the task assigned to him by this Court and in the process, he is also at liberty to fix respective remuneration of any persons/officials to be engaged by him in assisting him to carry out his overall function as an Administrator of the society and the college.

(xi) This Court was informed that the society by itself is not very resourceful in meeting the remunerative requirements under the present arrangements. However, this Court was informed that the college has sufficient funds for meeting such requirements. The remuneration as fixed and payable to the Hon'ble Administrator and also to other persons to be engaged by him is to be paid from the funds of Yadhava College.

(xii) The society and the college are also directed to provide a modest office accommodation for the Hon'ble Administrator to discharge his function effectively along with his Assistants and the staff of the society/college. The staff of the society and the college are directed to extend their utmost and active cooperation to the Hon'ble Administrator in discharge of his duties and functions. A suitable office space may be made available either in the college premises or any other place convenient for the administration.

(xiii) The members of the society and the college administration are also directed to make available the practical requirements of the Hon'ble Administrator for his presence in the office to enable him to function without any constraints.

(xiv) It is also clarified that apart from the remuneration to be fixed by the Hon'ble Administrator, the Hon'ble Administrator is also at liberty to claim the actuals for the expenses to be incurred by him and other assistants for Travel and Stay etc. 19. In view of the appointment of the Hon'ble Retired Judge of the High Court of Madras Shri.S.RAJESWARAN, as Administrator, the Government Order in G.O.Ms.No.96, Commercial Taxes and Registration (M1) Department, dated 27.07.2018 appointing Tmt.V.Vasuki, Deputy Inspector General of Registration, Madurai as Special Officer for managing society viz., Yadhavar Kalvi Nithi and the Government Order in G.O.Ms.No.212, Higher Education (D2) Department, dated 05.09.2018 appointing the District Collector, Madurai, as Special



Officer for managing the Administration of the Yadha College shall stand set aside."

8. Thereafter, the Court appointed learned Administrator, representing the registered society, filed Miscellaneous Petitions to permit the registered society, the petitioner in the Miscellaneous Petitions, to go for a new membership drive by inviting persons belonging to Yadava community by publication in newspapers to become the members of the society, so as to enable the Administrator to conduct elections to the registered society and further felicitation of smooth assumption of office by the duly elected offer bearers of the society.

9. The said Miscellaneous Petitions were allowed by a learned Single Judge of this Court by order, dated 22.12.2021 with certain directions. While giving directions, the learned Single Judge permitted the learned Administrator to induct fresh members with certain suggestions, on the basis of the report submitted by the learned Administrator. Though a common order was passed by the learned Single Judge by clubbing all the Writ Miscellaneous Petitions in every Writ Petitions, which were disposed of earlier, the petitioner in the present Civil Miscellaneous Petitions filed two appeals in W.A(MD)Nos.29 and 30 of 2022 challenging the order of learned Single Judge, dated 22.12.2021 passed in W.M.P(MD)Nos.18282 of 2022 in W.P.(MD)No.21216 of 2019 and W.M.P(MD)Nos.18286 of 2021 in W.P.(MD)No.21218 of 2019.

10. The appeals filed by the petitioner were allowed accepting the contentions of the petitioner that the very purpose of appointing the Administrator is to identify the existing members alone and that the Administrator cannot be permitted to go for fresh membership drive. The nature of order and the submission of the respective Counsels appearing for the petitioner as well as the respondents herein are relevant and hence, the following portions of the judgment of Division Bench in W.A(MD)Nos.29 and 30 of 2022, dated 12.04.2022 is extracted for convenience:

"12(ii). The learned Senior Counsel contended that the very purpose of appointing a retired Judge of this Court is to identify the existing members alone and not to go in for a fresh membership drive. He further contended that the learned Single Judge has already arrived at a finding that the members of the society have been categorised into three volumes. In the first volume, there are 4234 members. These members do not have membership numbers, nor they have receipt for payment of subscription and they have also not annexed their community certificate to prove their community. There are 5308 members in volume -2, of which all of them are having membership number and receipts for proof of payment of subscription.



However, they have not produced their community certificate so as to get themselves eligible to become life members. As far as 53 members in Volume-3 are concerned, they have membership number, proof of community, but there is no proof of continuous payment of subscription. Based upon the said findings, the learned Single Judge has proceeded to eliminate 4234 members found in Volume -1. The learned Single Judge has also proceeded to grant opportunity to 5308 members found in Volume -2 to produce their community certificate within a particular period of time to be specified by the Administrator. The learned Single Judge has also proceeded to permit the Administrator to receive subscription from 53 members whose name are found in volume -3.

12(iii).According to the learned Senior Counsel, this exercise ought not to have been carried out by the learned Single Judge, in view of the fact that any opportunity given to prove the community certificate would really result of admission of new members. Hence, he prayed for allowing the Writ Appeals.

13.Mr.M.Ajmalkhan, learned Senior Counsel appearing for the second respondent in W.A(MD).No.29 of 2022 has contended that he has no grievance with regard to granting time for submission of community certificate or for extending the time limit for receipt of subscription amount. Objection is for permission to induct new members. He further contended that there is a dispute within the management and the administration was in the hands of the Special Officer for sometime and thereafter, the Administration was taken over by a retired Judge of the High Court. Most of the members will not have paid their subscription. Hence, the order the learned Single Judge permitting the Administrator for extending time for receipt of the subscription cannot be faulted with. Any permission to admit a new member to the Society at the instance of the administrator would be clearly in derogation and in violation of the scope of common order dated 31.03.2021 passed by the Hon'ble Mr.Justice V.Parthiban in a batch of writ petitions. The very purpose of appointment of Special Officer followed by taking over the management by a retired Judge of the High Court is to identify the existing member of the society and to conduct election. Hence, he contended that granting permission for admission of a new members may be set aside.



14. The learned counsel appearing for the second respondent in W.A(MD).No.30 of 2022 had contended that the membership list has not been properly maintained by the management. They have not submitted Form VI for so many years. It is very difficult to find out who is the real member of the society. There has been an allegation as against the management that the original life members have been removed without any notice or enquiry. Hence, no election can be proceeded with based upon the existing membership list. According to him, in view of the above said facts, the order of the learned Single Judge permitting the Administrator to go in for a fresh membership drive is perfectly in order. Hence, he prayed for dismissal of the Writ Appeals.

15. We have given anxious consideration to the submission made by the learned Senior Counsel and other Counsels appearing for either side.

16. It is an undisputed fact that the Educational Agency namely the Society is suffering from various disputes for so many years and there has been several litigations over the administration and management of the society as well as the College which is administered by the society.

Considering the said fact, this Court has passed an order on 31.03.2021 appointing a retired Judge of this Court to take over the Administration and Management of not only the society but also the College. A perusal of the said order indicates that the Administrator was appointed with the main purpose of identifying the life members of the society and thereafter proceed with the election process. The averments in various writ petitions filed by the parties also indicate that none of them had sought for inclusion of new member and that too calling for application from all over India. All the parties have only pleaded before the Court to properly identify the existing members of the society and thereafter, conduct the election.

17. The learned Single Judge of this Court by his order dated 31.03.2021 has appointed a retired judge of this Court and issued various directions in paragraph No.20 of the order. The directions which relate to the membership of the Society are as follows:

"20(i). The Hon'ble Administrator would be the sole in-charge of the administration of the



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society (Yadhavar Kalvi Nidhi) as well as the administration of the college (Yadhava College), henceforth after assumption of charge. The Hon'ble Administrator may initiate appropriate action for bringing the finances of the society and the college under his control and supervision during the period of his administration.

(ii). The Hon'ble Administrator is requested to accord first priority for identification of the actual valid life members of the society and the Management Committee of the College which appear to be the bone of contention among the Warring members of the society and the College Management Committee."

18. In direction No.VIII, the learned Single Judge of this Court has permitted the administrator to seek clarification in discharge of his duties connected to the administration or any issue arising out of the decision making process by moving an application before the High Court.

18(i). Clause- (viii) reads as follows:

"(viii). In case any clarification is required in the discharge of duties of the Hon'ble Administrator, connected to the administration or any issue arising out of the decision making process of the Hon'ble Administrator such clarification may be obtained by moving appropriate petition/application before this Court only, either at the instance of the Hon'ble Administrator or others concerned. The limited latitude provided herein would not mean that every decision of the Administrator must call for attention of this Court and subjected to judicial review, by derailing the process of the Hon'ble Administrator completing the exercise in terms of the mandate of this decision".

19. The present interim applications have been filed by the Administrator only invoking the power conferred upon the administrator under Clause -(viii) of the directions. A combined reading of Clause - (i), (ii) and (viii) of the directions contained in Paragraph No.20 of the order of the learned Single Judge, dated 31.03.2021 will clearly show that the Hon'ble Administrator was requested to identify the actual valid life members of the Society and no request was made to induct new members. Only when such power is conferred upon the Administrator, the Administrator will be empowered to seek clarification



under Clause- (viii) of Paragraph No.20. Hence, the applications filed by the Hon'ble Administrator seeking permission of the Court to induct new members is beyond the scope of the power conferred upon the Administrator and hence, the said applications are not maintainable.

20.The prayer in the said applications is to seek the permission of the High Court to induct new members. There were no pleadings or prayer in the said applications seeking permission of the Court to receive community certificate or extending time for the member for payment of subscription. Hence, we find that the directions issued by the learned Single Judge under the impugned order in Paragraph Nos.11 to 16 are clearly out side the scope of the applications filed by the Hon'ble Administrator. When there are no pleadings in the applications, the respondents cannot be taken by surprise by way of such directions being issued at the time of passing order.

21.In Paragraph No.17, the learned Single Judge has permitted the Hon'ble Administrator to induct a new member by calling for applications from all over India.

22.The admission of the new members always rests with the discretion of the executive committee or general body as the case may be. When the elected executive committee is not there, it may not be proper for an Administrator appointed by the High Court to induct new members. The said power cannot be exercised by an Administrator appointed by the High Court. Any permission for admission of new membership will open the pandora's box resulting in plethora of litigation and delay of the election process.

23.As per Clause-1 of the bye-laws of the Yadhava Kalvi Nidhi Society, all the general public belonging to the Yadhava community in Tamil Nadu shall have right over the said Kalvi Nidhi (Society). It is evident that bye-laws provide for enrollment of members only from the State of Tamil Nadu and not from any other State. Hence, any permission granted to the Administrator to call for fresh membership from all over India would be in clear violation of the bye-laws of the society.

24.Being an adhoc appointee, the powers of an administrator are quite restricted. The administrator replaces the managing committee and therefore, the powers of an administrator, under no circumstances, can exceed the powers of the managing committee. Under Section 34-A of the Tamil Nadu Societies Registration



Act what is superseded is the managing committee and not the general body. The supremacy of the general body continues to operate even after supersession of the managing committee. Even after the appointment of an administrator, the functions and affairs of the society do not come to a standstill and the powers which are reserved and vested in the general body can be exercised by general body only. The decision of general body subject to the provisions of Tamil Nadu Societies Registration Act, 1975, would be binding upon the administrator being in place of the committee.

25. The High Court in a batch of writ petitions by its order dated 31.03.2021 has chosen to set aside the appointment of Special Officers who were appointed under two Government orders. In the place of a Special officer, this Court was pleased to appoint a retired High Court Judge to administer and manage the society and the college. Though an administrator has been appointed by an order of the High Court, the powers to be exercised by the said administrator are akin to the powers to be exercised by the Special Officer who is appointed under Section 34-A of Tamil Nadu Societies Registration Act, 1975.

25(i). Section 34A (2) of the Tamil Nadu Societies Registration Act, 1975 reads as follows:

"34A(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" .

26. Under Tamil Nadu Co-operative Societies Act, 1983, if there is a mismanagement to Co-operative Society, there is a parimateria provision under Section 88 of Tamil Nadu Co-operative Societies Act for appointment of administrator after supersession of board. Section 88 (3) reads as follows:

"88(3). The [administrator] 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 board or of any officer of the society and to take such action as may be required in the interest of the society" .



27. A careful perusal of Section 88(3) indicates that the administrator appointed shall have all the powers of the board. However Section 89-A was introduced in Tamil Nadu Co-operative Societies Act by way of amendment to the Tamil Nadu Co-operative Societies Act under which powers were conferred upon the administrator to induct new members during his adhocism. The validity of the said provision was challenged before this Court. A Full Bench of our High Court in a judgment reported in 2006 1 CTC Page 1 while declaring that Section 89-A of Tamil Nadu Co-operative Societies Act as unconstitutional has held as follows in Paragraph No.69:

"69. In view of the above discussion, this Court is of the view that the Co-operative Societies are constituted to function through the democratic management by the General Body through its elected board which alone is empowered to enrol the new members. If the power of enrolment of new members is conferred on the Special Officer who is appointed for a limited period with limited power to manage the affairs of the society till the constitution of newly elected board, it would amount to conferring powers on the Special Officer for alteration of the composition of the society itself which affects not only the democratic set up and management of the society, but also the scheme of the Act itself".

28. The Hon'ble Supreme Court while considering a similar provision under Kerala Co-operative Societies Act 1969 in Paragraph No.7 of the judgment reported in (2000) 6 SCC 127 has held as follows:

"7. ... What is necessary to bear in mind is that nature of function or power exercised and not the manner in which it is done. Indeed this Court, while considering the provisions of Section 30-A of the Karnataka Act, which enabled a Special Officer appointed to exercise and perform all the powers and functions of the Committee of Management or any officer of the Co-operative society (and not merely functions), took the view that the administrator or a Special Officer can exercise powers and functions only as may be required in the interests of the cooperative society. In that context, it was stated that he should conduct elections as enjoined under law, that is, he is to conduct elections with the members as on the rolls and by



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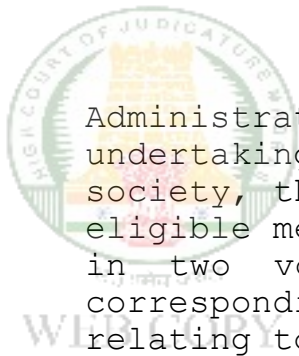


necessary implication, he is not vested with power to enrol new members of the society. We may add that a cooperative society is expected to function in a democratic manner through an elected committee of Management and that Committee of Management is empowered to enrol new members. Enrolment of new members would involve alteration of the composition of the society itself and such a power should be exercised by an elected committee rather than by an administrator or a committee appointed by the Registrar while the Committee of Management is under supersession.....".

29.Hence, we are of the opinion that the administrator appointed by the High Court has superseded only the committee and not the general body. Any permission granted to the administrator to induct new members would disturb the democratic process and take away the supremacy of the general body. 30.Since the order dated 31.03.2021 under which the Hon'ble Administrator was appointed did not confer any power upon the Administrator to induct new members, the applications filed by the Administrator in W.M.P(MD).Nos.18286 of 2021 and 18282 of 2021 are not maintainable. The directions issued by the learned Single Judge based upon the said interim applications, are also clearly out side the scope of the power of the Administrator as per the discussions held supra. The power of the Hon'ble Administrator is neither traceable to the statutory provisions of the Society Registration Act nor traceable to the order of appointment of the Administrator dated 31.03.2021. Moreover, the said application is also in violation of bye-laws of the Society as discussed earlier. Hence, viewed from any angle, the order passed by the learned Single Judge is liable to be set aside and hence, the Writ Appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed."

11.It is pertinent to mention that the order of Division Bench of this Court above referred to deals with a few aspects in relation to the permission sought for by the learned Administrator to go for a new membership drive by inviting the persons belonging to Yadava community by publication in newspapers inviting them to become the members of the registered society.

12.It is pertinent to mention that the learned Administrator has already prepared the list of three volumes. Volume-I consists of 4234 members, Volume-II contains the list of 5308 members and Volume-III contains the list of 53 members. The learned

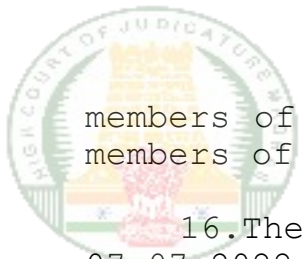


Administrator started scrutiny of eligible members. While undertaking the process of identifying the life members of the society, the learned Administrator has identified several members as eligible members of the registered society, from the list of members in two volumes, as the learned Administrator could not find corresponding records for receipt of donations or other details relating to members found in Volume-I.

13. Stating that the learned Administrator has now inducted new members by recognising the members of the College Committee as persons eligible to participate in the election, Mr. Isaac Mohanlal, learned Senior Counsel appearing for the petitioner submitted that the learned Administrator has indirectly implementing the order of learned Single Judge in the applications filed by the Administrator ignoring the final order passed in W.A.(MD)Nos.29 and 30 of 2022. The learned Senior Counsel further submitted that the list of eligible members exhibited by the learned Administrator in the notice board of the college campus is against the order passed by this Court, dated 12.04.2022 and also the bye-laws of the registered society.

14. He further submitted that the learned Administrator, despite the petitioner's detailed objection with regard to the electoral list exhibited in the college campus, has proceeded to finalise the list of voters without considering the petitioner's objection. The request of the petitioner was to finalise the list of voters as per Form-VI approved by the Registrar of Society from 1962 to 2008 and to exclude all the members, whose names are found in the other two lists. The learned Senior Counsel, in short, submitted that only the 53 members, who are on the roles as per Form-VI submitted by the Registrar of Society are eligible and that inducting or adding any other persons from the other two volumes will be against the bye-laws of the registered society and prayed for allowing these petitions.

15. Learned Senior Counsel appearing for the petitioner drew our attention to the bye-laws of the registered society and Form-VI and Form-VII that were filed to show that the list of members found in volume-III alone can be recognised as members of General Body of registered society. Learned Senior Counsel submitted further that the registered society as per bye-laws have recognised an unregistered body for administration of college and that such members, who were inducted as members for the college, cannot be treated as members of the General Body of the Registered Society. He also relied upon certain observations in the judgment of Hon'ble Mr. Justice V. Ramasubramanian in a batch of case relating to the same society reported in **2013 (2) CTC 241**. He also relied upon the report, dated 23.03.2019 of Deputy Inspector General of Registration, who was appointed as Special Officer to conduct election. It was pointed out therein that life members of Yadava College, who were enrolled by the society cannot be considered as



members of the registered society and that 58 members alone are members of the registered society.

16. The learned Administrator submitted a report, dated 07.07.2022 in response to the present Civil Miscellaneous petitions indicating that the learned Administrator is ready with final voters list of 2902 members as on 07.07.2022 and that the Administrator would abide by any orders that may be passed by this Court. The learned Counsels appearing for the other respondents oppose the applications on various grounds. A serious question was also raised as to the maintainability of the petitions for direction after the disposal of the Writ Appeals by a detailed order.

17. As seen from the records, several Writ Petitions were filed in relation to the administration of Registered Society and the college. It was noticed that controversies centered around membership of the registered society. Even the report dated 23.03.2019 of Deputy Inspector General of Registration, who was appointed as Special Officer of "Yadhavar Kalvi Nidhi", is challenged in W.P.(MD) No. 8772 of 2019 and batch. A learned Single Judge of this Court while appointing Administrator has considered identification of life members of registered society out of around 17 thousand members of Yadhavar committee, who have paid subscription or donation to the college, as core issue in the order, dated 31.03.2021. It is relevant to extract para 13, 14 and 19 of the order in this context:

"13. From a perusal of the letter dated 12.04.2019 issued by the Registration Department addressed to the Inspector General of Registration under a copy to the society, it is clearly mentioned that there must be proper identification of life members and unless such identification has been done thoroughly and comprehensively, election may not be conducted. In fact, the communication would refer to 17,559 registered membership. This advice was followed by clarification dated 26.06.2019 by the Inspector General of Registration, who reiterated that there has to be proper identification of valid life members and only after finalisation of the membership list, the election process could be set in motion. Thereafter, the Special Officer issued election notification on 17.09.2019 which has been subjected to challenge in the aforementioned writ petitions which are all covered under this common order.

14. The brief narrative of the above would disclose that as on date neither the society nor the College Management Committee is in charge of the society or the college, in the face of the recurring dispute and giving rise to multiple and plethora of challenges before this



Court through various Writ Petitions. From the records, could also be seen that a scheme suit is pending as on date in O.S.No.587 of 2008 before the Court of Subordinate Judge, Madurai, in regard to the mismanagement of the society. Further, in one of the Writ Petitions, it is also averred that nearly 5282 life members who paid life membership subscription to both the society and the College Management Committee, whose names had been willfully omitted without any notice to them. In the said circumstances, the foundation of dispute and the most imperative of all the controversies is in relation to the finalisation of valid life members of the society and the College Management Committee and the numbers vary from 58 to over five thousand or over 17 thousand, as the case may be. Therefore, the magnitude of said dispute assumes Himalayan proportion in identifying the actual and valid life members of the society as well as the College Management Committee.

19. In the overall consideration of the troubled history of the society and the college for the last several years, with a view to find a lasting solution at least for the wellbeing of the society and college in the future, this Court without delving into the validity of the challenges made in the individual writ petitions and also without examining the veracity of the competing claims and the statements of the parties to the litigations has proposed to dispose of all the Writ Petitions by appointing a retired Hon'ble Judge of this Court to take over the society as well as the college for the present. The retired Hon'ble Judge of this Court, who is to be appointed under this order, would take charge of the administration of the society viz., Yadhavar Kalvi Nithi as well as the administration of "Yadhava College" for all purposes, till the life membership of the society is properly identified and finalised and elections to the society to be conducted thereupon and the declaration of the results of the office bearers of the society and the final handing over of the reins of the society to the duly and newly elected members/office bearers. Till such time, the Hon'ble Administrator would be the sole authority and all decision regarding the society and the administration of the college must necessarily emanate from him and with his concurrence and approval. The Hon'ble Administrator is also at liberty to appoint any official/s to assist him in discharge of his duty as Administrator of the society and the college, as he deems fit."

18. It is admitted by the learned Senior Counsel appearing for the petitioner that no further appeal is filed as against the above



order of learned Single Judge. As per the direction of learned Single Judge extracted earlier, the Hon'ble Administrator was requested to identify the valid life members of the society and the management committee of the College. It appears that the petitioner has never advanced an argument that the membership list should be confined to 58 as per Form-VI filed before Registrar. When the common order of learned Single Judge, dated 31.03.2021 is not challenged, this Court is unable to countenance the argument of learned Senior Counsel appearing for the petitioner that scrutiny of life members should be confined to the list of 58.

19.The Hon'ble Administrator expressing some difficulty in identifying all the eligible members out of the 9595 members enlisted in three volumes filed interlocutory applications to permit the registered society to go for a new membership drive. A learned Single of this Court while disposing of the applications requested the Administrator to give opportunity to such members from Volume-II to establish their community by giving sufficient time. The Hon'ble Judge gave further directions for inviting fresh members and to treat the members from the first list of 4234 as fresh members, if they prove their community. This order was challenged in W.A.(MD) Nos.29 and 30 of 2022 by the petitioner herein. The idea of going for fresh membership drive was opposed by almost all the parties except the second respondent in the respective appeals. Both appeals were allowed by this Court by judgment, dated 12.04.2022, holding that permission cannot be granted to the Administrator to go for fresh membership as it is opposed the previous orders and bye-laws of the Society apart from being outside the scope of the order of appointment of Administrator. No where in the order, the Hon'ble Judge Administrator is restrained from doing scrutiny of members from list-II. This Court is unable to find an argument to insist the scrutiny confined to the 58 members so that this issue could have been considered by the Division Bench earlier. Therefore, the arguments of learned Senior Counsel appearing for the petitioners that the scrutiny of second list consisting of more than 5000 members is opposed to the direction of Division Bench cannot be countenanced.

20.It is admitted that Form-VI submitted by the society pertaining to the registered society, "Yadhavar Kalvi Nidhi" from 1962 to 2007-2008 reveals only 58 members as on 2007-2008. However, participation of more than 200 members in the General Body meeting of the registered society is also admitted. The confusion was due to the enrolment of members by the registered society both for the society and for college. The college is not a registered society. However, bye-laws for the college was also framed by the registered society. Any person belongs to Yadhavar community and who donate a sum of Rs.250/- or more to "Yadhavar Kalvi Nidhi" becomes members of General Body of the college. As per the bye-laws, the General Body of "Yadhavar Kalvi Nidhi" consists of two categories of members. Persons who donate Rs.1,000/- or more comes under the first category and persons who donate less than Rs.1,000/- are placed under second category. Even a person who gives a donation of Rs.100/- or more



becomes the life members of Yadhavar Kalvi Nidhi and any person who pays a sum of Rs.5 as donation also can become a member of registered society. Therefore, every member who gives a donation of Rs.100 to "Yadhavar Kalvi Nidhi", becomes a life member of registered society. Any one can become a member of General Body of college, if his donation is above Rs.250/-, to the College Nidhi, as per the original bye-laws. However, there was amendment of bye-laws by which the new member is required to get the application from General Body of "Yadhavar Kalvi Nidhi". The application will be scrutinised by the executive committee and the members whose membership are approved by the General Body alone can be admitted as members. New member is required to pay Rs.1,000/- towards entry fee and continued to pay a sum of Rs.200/- every year. However, member who have donated to the College need not pay entry fee as per the amended bye-laws. As per the bye-laws, no one who has not paid a sum of Rs.250 or more cannot become a member of General Body of College even though he may become a member of registered society as per the unamended bye-laws. This shows that members of Kalvi Nidhi or the General body of Registered society comprises of everyone who pay Rs.100/- or more to become life member and pay Rs.5 to become an ordinary member. There is no scope for rejecting the members who had paid Rs.100/- or more to the "Yadhavar Kalvi Nidhi". Hence, the statement of Hon'ble Administrator in his report stated that members from Volume-II who are in possession of receipt issued by "Yadhavar Kalvi Nidhi" were considered as members of registered society cannot be faulted.

21. From the above discussion, this Court is unable to find any merit in these petitions and these petitions are wholly misconceived on the admitted facts and unsustainable. The petitioners who have not challenged the common order in the batch of Writ Petitions, have now filed these petitions with the full understanding and scope of directions and hence, these petitions appear to be with an intention to delay the process with ulterior motive. This Court cannot rehear the matter on issues which had been indirectly answered. The petitioners who have not challenged the common order, dated 31.03.2021 cannot maintain these petitions. For the unnecessary delay caused by the petitioners, these petitions are dismissed with cost of Rs.50,000/- which shall be paid to the first respondent society within a period of three weeks from today. List the matter after three weeks for reporting compliance.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/09/2022

Sub Assistant Registrar (CS)



TO

1. The Principal Secretary,
Commercial Taxes and Registration (M1) Department,
Fort St. George, Chennai-600 009.

2. The Inspector General of Registration,
Santhome,
Chennai-600 028.

Copy to:-

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.

+ 4 CC to M/s. Abdul Saleem, Advocate, SR.Nos. 41021 &
41422

+ 1 CC to M/s. K. Rajasekaran, Advocate, SR.No. 41276

+ 1 CC to M/s. Ajmal Associates, Advocate, SR.No. 41588

+ 1 CC to M/s. H. Arumugam, Advocate, SR.No. 42421

+ 1 CC to Special Government Pleader, SR.Nos. 42382 & 42395

ORDER DATED : 29/08/2022

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ORDER
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CMP(MD) Nos. 5668 and 5669 of 2022
in
WA(MD) Nos. 29 and 30 of 2022

Giving direction and etc.
as stated within.

MGJ(02.09.2022) 21P 12C