



W.P(MD)No.15333 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.09.2022

PRONOUNCED ON : 28.10.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15333 of 2022

and

W.M.P.(MD)No.10969 of 2022

M/s.Tirunelveli Dakshina Mara Nadar Sangam

(Reg.No.6 of 1948)

Rep. by its Secretary,

R.Shanmugavel Nadar,

S/o.Ramasundarapandi Nadar,

Having Office at

No.70, Saalai Street,

Sindhupoondurai,

Tirunelveli-627 001.

... Petitioner

Vs.

1.State of Tamil Nadu

Rep. by Inspector General of Registration

No.100, Santhome High Road,

Chennai-600028.

2.The District Registrar,

Tirunelveli.

3.Anitha R.Sivanandha Nadar

No.4, Mynatheppakulam,

Kamaraj Salai,

Madurai.

4.T.Rajakumar

(R4 is suo motu impleaded vide order

dated 08.08.2022 by this Court)

... Respondents



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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 in 5187/E1/2021, dated 28.06.2022 on the file of the second respondent and quash the same and direct the second respondent to accept Form-7 filed by the petitioner for the general council meeting dated 31.08.2021.

For Petitioner : Mrs.Chitra Sampath, Senior Counsel
for Mr.V.Balasubramanian

For R1 & R2 : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.K.Balasubramani
Special Government Pleader

For R3 : Mr.H.Arumugam

For R4 : Mr.Sricharan Rengarajan
for Mr.S.Packiyamuthu

ORDER

The subject matter concerns the affairs of a registered society by name Tirunelveli Dakshina Mara Nadar Sangam. The writ petition has been filed by Thiru.R.Shanmugavel Nadar claiming to be its Secretary. According to him, notification dated 09.08.2021 calling for general body meeting to be held on 31.08.2021 at 11.00 a.m., at Dr.P.Sivandhi, Adhithanar Auditorium located at South Kallikulam, Tirunelveli Dakshina Mara Nadar Sangam College was published in 'Daily Thanthi' on 10.08.2021. The meeting was held as scheduled. The petitioner was elected as Secretary. Form-VII was submitted



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before the second respondent. Instead of filing the same, the second respondent chose to accept the Form-VII submitted by a rival group. According to the rival group, a General Meeting Body meeting was convened on 04.05.2022 and a new set of office bearers was chosen. The impugned order dated 28.06.2022 issued by the second respondent is to that effect. Challenging the same, the present writ petition has been filed.

2. The official respondents as well as the contesting private respondents have filed counter affidavits.

3. According to them, the meeting held on 31.08.2021 was not legal because 21 days clear notice was not given. That is why, the District Registrar (Admin), Tirunelveli rightly did not take the same on file. In these circumstances, requisition was given by 316 life members of the society calling upon the President for convening a Special General Body Meeting. This requisition was given on 25.01.2022. But no such meeting was convened within a period of 30 days. Therefore, the requisitionists issued publication in Dhinanthi Daily on 12.04.2022 for conducting Special General Body Meeting on 04.05.2022. On the said date, the meeting was held. A retired District Judge acted as elected officer. 3230 members were present in the said meeting.



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One R.K.Kalithasan Nadar, T.Rajakumar Nadar, A.Selvaraj Nadar, Anitha R.Sivanantha Nadar and V.P.Ramanathan Nadar were elected as President, Secretary, Treasurer, Vice President and Deputy Secretary respectively. That apart, 38 Executive Members were also elected. Quorum for such meetings shall be 1500 and in this case, quorum was more than satisfied. Form-VII was submitted. After noticing that all the procedural formalities were complied with, Form-VII submitted by the newly elected office bearers was taken on file. It is not as if this was done arbitrarily. The writ petitioner was duly enquired. All the relevant documents were perused. Only after satisfying herself fully, the second respondent rejected the earlier Form-VII and accepted the new Form-VII. If the petitioner wants to question the action taken by the second respondent, he has to necessarily move the jurisdictional civil Court. Filing writ petition is not appropriate. The respondents pressed for dismissal of the writ petition.

4. The learned Senior Counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. She asserted that 21 days notice was in-fact given. The notification was issued on 09.08.2021. The publication was made on 10.08.2021 and the meeting was held on 31.08.2021. According to the learned senior counsel, this more than



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satisfied the statutory requirement. The learned senior counsel faulted the second respondent for not having acted on the petitioner's application. When the writ petitioner submitted his Form-VII, there was no rival Form-VII. Since Form-VII submitted by the writ petitioner is earlier in point of time, it ought to have been accepted. If according to the second respondent, the rival Form-VII has also been submitted, then, the second respondent could not have assumed the role of an adjudicator. She must have relegated both the parties to move the jurisdictional civil Court. According to the learned Senior Counsel, the second respondent had conducted herself in a partisan manner.

5. Per contra, the learned Additional Government Pleader appearing for the official respondents as well as the learned counsel appearing for the contesting respondents would submit that the impugned order does not call for any interference. They relied on a catena of decisions to question the maintainability of the writ petition as well as to sustain the impugned order.

6. I carefully considered the rival contentions and went through the materials on record.

7. The first question that calls for consideration is whether the meeting held on 31.08.2021, in which, the writ petitioner was elected as Secretary of the



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Society can be said to have been validly convened. Section 26 of the Tamil Nadu Societies Registration Act, 1975 is as under:-

26. Annual General Meeting:- (1) At least one general meeting of the registered society shall be held in every financial year.

(2) Notice of every such general meeting shall be given by the registered society to its members within such period as may be prescribed before the day appointed for the meeting.

(3) The notice shall specify the day, hour and place and the object of the meeting and, in case any amendment of a bye-law or objects of association as contained in the memorandum is intended to be proposed, shall contain a copy of every such amendment.

(4) The Registrar may nominate an officer subordinate to him to be present at any such general meeting.

Rule 25 of the Tamil Nadu Societies Registration Rules, 1978 is as under:-

25. Notice of annual general meeting to members:- (1) Notice of general meeting of the society under sub-Section (2) of Section 26 shall be given to the members at least twenty-one days before the day appointed for such meeting.

(2) The notice shall be sent to the members by one or more of the following modes, namely:-

- (a) by local delivery; or
- (b) by post; or
- (c) by circulation among the members; or
- (d) by publication through press.

(3) The notice shall also be affixed to the notice board of the society.

8. Rule 25(1) of the Tamil Nadu Societies Registration Rules, 1978 mandates that notice must be given atleast 21 days before the day appointed for



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such meetings. This was considered in the decision reported in **2001 (3) CTC 486 (R.Karuppan Vs. P.K.Rajagopal)** and it was held that without giving 21 days' clear notice, no General Body Meeting of any association registered under this Act can be called. In the decision reported in **ILR (1972) 1 Delhi (Bharat Kumar Diwali Vs. M/s.Bharat Carbon & Ribbon MFT Ltd.,)** following the decision reported in **AIR 1957 Rajasthan 388 (Anokhmal Burelal Vs. Chief Panchayat Officer, Rajasthan Jaipur and others)**, it was held that the expression “at least seven days before the date of election” were construed to mean seven clear days. In Maxwell on Interpretation of Statutes, there are the following observations:

“Again, when so many “clear days”, or so many days “at least”, are given to do an act, or “not less than” so many days are to intervene, both the terminal days are excluded from the computation. In other cases, it would seem, the rule is to exclude the first and include the last day”,

K.S.Ramesh Vs. the Deputy Registrar of Co-operative Societies reported in **2018 (4) CTC 113** arose under the provisions of the Tamil Nadu Cooperative Societies Act. The true meaning and import of the expressions 'days' and 'clear days' came up for consideration. The learned Judge also went into the issue as to how compute and reckon the number of days in such cases. Paragraph Nos. 12, 13, 14, 15, 16, 18 & 19 are as follows:-

12. In the decision reported in ILR 1972 Delhi 837 cited supra, the learned Division Bench of the Delhi High Court followed the decision of the Punjab and



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Haryana High Court in the case between M. Lall and v. Gopal Singh and others reported in MANU/PH/0105/1963 : , wherein the Punjab and Haryana High Court held as follows:-

"I do not think it is correct to take into account in computing days, fraction of a day. A day is a unit of time and has been treated as a standard of measurement. A day is not an aggregation of hours, minutes or seconds when it is construed as a unit of time. When law refers to days, it does not take into reckoning a further subdivision of day in hours or minutes. By a day is understood a "calendar day" or an 'entire day. A 'day' is a space of time between two successive midnights and in computing day as a period of time, law does not take into consideration fractions of two days in order to make up one complete day.

I have not lost sight of the fact that for certain purposes a day may have other connotations. As for instance, it may signify the interval of light from sunrise to sunset in contradistinction to the period of darkness or night but this is not for purposes of computation of period of limitation. In certain statutes, the period to be reckoned is prefixed by the words 'from' and 'to'. This is not the case here. There it is usual to exclude the first and include the last terminal day. The next significant word is 'before'. When an act is required by law--as in this case--to be done within a number of days before an event, the day on which the particular event occurs, has to be excluded.....

.....

Reliance was also placed on Harinder Singh v. Karnail Singh, AIR 1957 SC 271, but that decision also is distinguishable on facts and a proposition laid down therein is not the same which arises in this case. While construing R. 119 of the election rules in conjunction with section 81(1) of the representation of the people act, 1951, the Bench expressed the view that the words "not later than fourteen days" must be held to mean the same thing as "within a period of fourteen days".

.....

In the case of Suraj Bhati v. Randhir Singh, MANU/PH/0141/1958 : AIR 1958 Punj 483, the Division Bench was called upon to consider the meaning of section 55a(2) of the representation of the people act, which ran thus:-



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"A contesting candidate may retire from the contest by a notice in the prescribed form which shall be delivered to the returning officer between the hours of eleven 0' clock in the forenoon and three 0' clock in the afternoon of any day not later than ten days prior to the date or the first of the dates fixed for the poll under Clause (d) of Section 30....."

It was held that the section did not talk of ten days clear notice but merely said that retirement must be not later than 10 days prior to the date of the Poll, the retirement, which was on the tenth day, was considered to be within limit."

13. Hence, in view of the above decisions, even a day is divisible into hours, minutes and seconds, this Court is also of the view that a day is a unit of time and has been treated as a standard measurement. A day is not an aggregation of hours, minutes or seconds when it is construed as a unit of time. When law refers to days, it does not take into reckoning a further sub-division of day in hours or minutes, but a day means a "calendar day" or an 'entire day'. A 'day' is a space of time between two successive midnights and in computing a day as a period of time, law does not take into consideration fractions of two days in order to make up one complete day. Hence, this Court is of the view that both the 'day' and 'clear day' refers to a 'whole/complete/entire day of 24 hours between two midnights' and not fraction of days covering 24 hours.

14. The definition for reckoning 'days' and 'clear days' as defined in Law Lexicon is as follows.

In any case, in which any particular number of days not expressed to be clear days is prescribed by the Rules of the Supreme Court, the same shall be reckoned, exclusively on the first day and inclusively on the last day". "In the County Court Rules, 1903, 'clear days' means that in all cases in which any particular number of days is prescribed for the doing of any act or for any other purpose, the same is to be reckoned exclusive both of the first and of the last day."

15. In the case of 'Kamal Sharma v. State of UP and Others' in WRIT - C No. 9763 of 2013 dated 05.10.2013, the Hon'ble Allahabad High Court has held that



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both days, namely initial day and last day are excluded for reckoning the clear 15 days notice as per Section 87-A (3) of the U.P Municipalities Act, 1916.

16. Section 10 of the General Clauses Act, is as follows:

"Where by any Central Act or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open."

18 . From the above decisions, it is clear that even though there is no difference between the 'days' and 'clear days', there is a difference in computing/reckoning 'number of days' and 'number of clear days'. For reckoning number of 'days' the same shall be reckoned "exclusively of the first day and inclusively of the last day, unless the last day happens to fall on Sunday or any public holiday, in which case the number of days shall be reckoned "exclusively of the first day and exclusively also of every such Sunday or public holiday". Therefore, this Court is of the opinion that, for reckoning 'number of days', in general, first day alone has to be excluded and in case the last day happens to fall on Sunday or any public holiday, then both the first day and last day have to be excluded. Similarly, for reckoning 'number of clear days', in general, both the first day and last day have to be excluded and in case the last day happens to fall on Sunday or any public holiday, then those days have also to be excluded. Accordingly, Issue No. 2 is answered.

19. Issue No. 3 In a decision reported in MANU/SC/0056/1956 : AIR 1957 SC 271 (Harinder Singh v. Karnail Singh), while construing R. 119 of the Election Rules in conjunction with section 81(1) of the representation of the people act, 1951, the Bench expressed the view that the words "not later than fourteen days" must be held to mean the same thing as "within a period of fourteen days".



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9. Admittedly, the notice for convening the General Body Meeting was published only on 10.08.2021. The learned senior counsel contended that since it is published in the morning newspapers, the said date could also be taken into account for computing 21 days. The case laws mentioned above clearly indicate that the entire first day as well as the entire last day must be excluded and that intervening period must comprise full 21 days. If 10.08.2021 and 31.08.2021 are excluded, the period in between is only 20 days. It is not possible to include 10.08.2021 merely because the notification appeared in the morning newspaper. Therefore, the second respondent was justified in coming to the conclusion that the meeting held on 31.08.2021 was not valid. She rightly did not take the Form-VII submitted by the writ petitioner on file.

10. It is well settled that while taking Form-VII, the District Registrar is performing only ministerial duty. *Prima facie*, the steps taken by the contesting private respondents appear to be in order. They had requested the President to convene the Special General Body Meeting. It was not convened. Therefore, the requisitionists on their own went ahead. Their notice issued for convening the meeting on 04.05.2022 complies with the requirement set out in Rule 25. Admittedly, the writ petitioner had not convened any parallel General Body Meeting. He had only claimed to have convened the rival Executive Committee.



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11. Once the Form-VII submitted by the writ petitioner is eschewed, it means that Form-VII submitted by the fourth respondent is not contested by a rival Form. It is true that two civil suits are pending. But no restraint order emanated from the civil Court forbearing the District Registrar from filing the Form-VII submitted by the fourth respondent. There is also a considerable merit in the preliminary objection raised by the learned Special Government Pleader that in view of the decision of the Madras High Court reported in **2008 (1) MLJ 1308 (R.Muralidaran Vs. District Registrar) and 2013 (2) CTC 241 (Yadhavar Kalvi Nithi Registered Society Vs. State of Tamil Nadu)**, the petitioner could have only filed a civil suit. The second respondent has passed the impugned order only after hearing both the parties. She has borne the statutory scheme as well as the principles of law laid down in the aforesaid decisions in mind. It does not call for any interference.

12. The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.10.2022

Index : Yes / No
Internet : Yes/ No
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- To
- 1.The Inspector General of Registration
No.100, Santhome High Road,
Chennai-600028.
 - 2.The District Registrar,
Tirunelveli.



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