



REV APLW(MD).No.62 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLW(MD).No.62 of 2022

in

W.P(MD)No.19756 of 2022

REV.APLW(MD).No.62 of 2022:

V.Lekshmanapillai

... Petitioner

v.

1.Lekshmipuram Collage Society,
Represented by its President,
K.Rajagopal S/o.C.Kuttalam Pillai,
Gowri, 13/14, CKS Compound,
Eraniel, Neyoor Post,
Kanyakumari District.

2.The District Registrar,
Kanyakumari District,
At Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Review Application filed under Order 47 Rule 1 of Civil Procedure Code to review the order dated 26.08.2022 passed by this Court in W.P(MD)No.19756 of 2022.



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For Petitioner : Mr.C.Godwin

For Respondents : Mr.K.Govindarajan
For Mr.J.Brezhnev for R.1

Mr.S.R.A.Ramachandran
Additional Government Pleader for R.2

W.P(MD)No.19756 of 2022:

Lekshmipuram Collage Society,
Represented by its President,
K.Rajagopal S/o.C.Kuttalam Pillai,
Gowri, 13/14, CKS Compound,
Eraniel, Neyoor Post,
Kanyakumari District.

... Petitioner

Vs.

The District Registrar,
Kanyakumari,
Kanyakumari District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to issue Form No.VII to the petitioner forthwith, based on the petitioner's representations dated 26.07.2022 and 10.08.2022.

For Petitioner : Mr.K.Govindarajan
for Mr.J.Brezhnev

For Respondent : Mr.S.R.A.Ramachandran
Additional Government Pleader



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COMMON ORDER

Heard the learned counsel appearing for the review applicant, the learned counsel appearing for the District Registrar (Societies), Kanyakumari District.

2.The case on hand pertains to the affairs of Lekshmipuram College Society, Eranial. W.P(MD)No.19756 of 2022 was filed for directing the District Registrar (Societies), Kanyakumari District to issue Form – 7 to the writ petitioner.

3.When the matter was listed before me, the learned counsel appearing for the writ petitioner submitted that election for the executive committee was conducted on 25.07.2022 pursuant to the order passed by the Hon'ble Division Bench in S.T.A(MD)No.1 of 2022 dated 08.04.2022 and that a retired District Judge had conducted the election and Form – 7 was also submitted to the authority on 10.08.2022.

4.The grievance of the writ petitioner was that it was yet to be filed by the District Registrar. To a specific question posed by the Court,



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whether there is any rival claim or objection from any quarter, it was asserted by the learned counsel for the petitioner that there is no rival claim or objection. I thereupon directed the District Registrar (Societies), Kanyakumari District to file Form - 7 and allowed the writ petition on 26.08.2022. Seeking recall / review of the said order, W.M.P(MD)No. 15509 of 2022 and Rev.Apl(MD)No.62 of 2022 have been filed.

5.The learned counsel appearing for the petitioner in the recall petition / review applicant submitted that the order passed allowing the writ petition suffers from errors apparent on the face of the record. They would contend that S.T.A(MD)No.1 of 2022 was filed by the Lekshmipuram College Society questioning the order passed by the Government appointing Special Officer and that a District Judge was appointed by the Hon'ble Division Bench to conduct the election. The Hon'ble Division Bench had directed the Election Officer to file the report by 20.06.2022. The Election Officer was given liberty to seek advancement of the hearing of the appeal if the election is completed earlier. It was clearly indicated that the election process was subject to further orders to be passed in S.T.A(MD)No.1 of 2022. Since the petitioners in W.M.P and the review applicant are parties to S.T.A(MD)No.



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1 of 2022, in all fairness, they should have been impleaded in W.P(MD)No. 19756 of 2022 also. They are not only interested parties but also necessary parties. Failure to implead them clearly rendered the writ petition itself as not maintainable.

6.The learned counsel appearing for the review applicant also submitted that though the election process was concluded on 25.07.2022, within 2 days thereafter, objection was lodged by the review applicant before this Court. It is seen that the writ petitioner had taken advantage of the non-listing of the S.T.A(MD)No.1 of 2022. Both the counsel strongly urged that the affidavit filed by the original writ petitioner suffered from suppression of material facts. The learned counsel placed reliance on the decisions reported in *(1993) Supp (4) SCC 595 (S. Nagaraj and Others vs. State Of Karnataka and others)* and *(2006) 8 SCC 126 (G.B. Pant University vs. Govind Ballabh Pandey and Others)* in support of their contentions.

7.Per contra, the learned counsel appearing for the writ petitioner submitted that the order passed by this Court does not call for any review. He added that the newly elected president was not a party to the



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proceedings before the Hon'ble Division Bench and he was not aware that objection had been filed.

8.I carefully considered the rival contentions and went through the materials on record. The only question that calls for consideration is whether the order directing the District Registrar (Societies), Kanyakumari to file Form - 7 submitted by the writ petitioner is to be reviewed or recalled. There was a dispute between the petitioner in W.M.P(MD)No. 15509 of 2022 on the one hand and the review applicant on the other. W.P(MD) Nos.13041 of 2019 etc were disposed of by a learned Judge of this Court on 23.04.2021 with the following directions :

“21.In the above circumstances, while disposing of the writ petitions, it is imperative to issue the following directions:

i) As far as the Society is concerned, the District Registrar of Societies is directed to approach the competent authority of the Government for appointment of a Special Officer to take over the Society as expeditiously as possible but not less than eight weeks from the date of receipt of a copy of this order. If any Special Officer is appointed under the provisions of the



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Societies Registration Act, the Special Officer shall explore the possibility of conducting election to the Society on a priority basis and hand over the administration of the Society to the newly elected office bearers of the Society in the election to be conducted under his supervision. The competent authority, while appointing the Special Officer, may fix any time limit for this purpose as he deems fit.

ii)As far as Lekshmipuram College of Arts and Science, Kanyakumari District is concerned, the Director of Collegiate Education shall pass orders for bringing the Institution under direct payment till the conflict as to who is the Secretary of the College is resolved in terms of the election to the Society. The Director of Collegiate Education is also at liberty to approach the Government for appointment of Special Officer to manage the administration of the College in terms of Section 14A of the Tamil Nadu Private Colleges (Regulation) Act, 1976, till the controversy connected to the election of the valid office bearers to the Society is resolved.

iii)The Director of Collegiate Education is directed to pass appropriate orders in this regard within a period of four weeks from the date of receipt of a copy of this order. He is also directed to simultaneously approach the Government with his report seeking appointment of Special officer as expeditiously as possible.



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iv)As regards the election dispute to the Society, it is open to the parties to approach the competent Civil Court if need arises for resolving any conflicting claims as this Court is of the view that such dispute cannot be resolved by mere acceptance or non-acceptance of Form-VII by the District Registrar of Societies. Such dispute can eventually and ultimately to be resolved only by the Civil Court and not by the Registrar or by this Court, exercising its writ jurisdiction.”

Pursuant to the order dated 23.04.2021, Special Officer for the Society came to be appointed under Section 14 (A) of the Tamil Nadu Private Colleges Regulation Act, 1976. Aggrieved by the same, the college Society filed S.T.A(MD)No.1 of 2022.

9.The Hon’ble Division Bench noted that the triennium for which the office bearers were elected had expired on 19.03.2022 and that election for Society for the next triennium 2022 - 2025 was due. It also noted that the District Registrar of Societies vide order dated 22.03.2022 had appointed one Pulipandian as Special Officer for conducting the election. Before the Hon’ble Division Bench, the parties agreed that a retired District Judge or some other responsible person can be appointed to conduct elections. In view of the consensus between the parties, a retired



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District Judge was appointed as Election Officer to conduct the election as per the bylaws. He was required to conduct the election with the assistance of the Special Officer appointed for the College by the Government within a period of two months. Pursuant to the direction given by the Hon'ble Division Bench, the Special Officer conducted the elections on 25.07.2022. He also certified that Mr.K.Rajagopal was duly elected as President of the Society. Form-7 was also presented by him before the District Registrar Societies on 27.07.2022. It is true that the Hon'ble Division Bench in its order dated 08.04.2022 had mandated that the report of the Election Officer shall be filed before a particular date and if before the said date, the election process has been completed, it was open to the Election Officer to seek advancement of the hearing of the appeal. The Hon'ble Division Bench had not said anything more. It is well settled that filing of Form-7 is only a ministerial act and nothing more. If there were rival forms submitted before the authority, then obviously the District Registrar cannot undertake an adjudication. Before the District Registrar there was only one Form.

10.Since the election itself was conducted by a retired District Judge pursuant to the direction of the Hon'ble Division Bench and since there



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were no rival Form, I directed the District Registrar to file the same. I had not passed any other direction. The direction given by this Court by itself will not affect the rights of the petitioner in W.M.P or Review applicant. If according to them, the election process was not properly conducted, it is definitely open to them to have place their case before the Hon'ble Division Bench in S.T.A(MD)No.1 of 2022. The direction given by me to the District Registrar for filing Form 7 will not in any way infringe the rights of the parties. It is for the Hon'ble Division Bench to take the final call. I make it clear that the direction given in W.P(MD)No.19756 of 2022 will not in any way foreclose the contentions of the review applicant or the petitioner in W.M.P(MD)No.15509 of 2022.

11.With this clarification, both the review application and writ petition are disposed of. No costs.

13.09.2022

Index :Yes/No
Internet:Yes/No
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To
The District Registrar,
Kanyakumari District at Nagercoil,
Kanyakumari District.



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G.R.SWAMINATHAN, J.

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