



Cont.P(MD).No.1314 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Cont.P.(MD)No.1314 of 2022

in

W.P(MD) No.18857 of 2021

M.Subramaniam

... Petitioner/ 6th Respondent

Vs

Dr.I.Ismail
The Secretary,
Victoria Edward Hall,
32-B, West Veli Street,
Madurai – 625 001.

... Contemnor/ Writ Petitioner

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, praying to punish the Contemnor / respondent herein for his willful and deliberate disobedience of the order of this Court, dated 22.08.2022 in Writ Petition (MD) No.18857 of 2021.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
For M/s.Isaac Chambers

For Respondent : Mr.V.Meenakshisundaram



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ORDER

This Contempt Petition has been filed alleging violation of the order passed by this Court, on 22.08.2022 in W.P.(MD) No.18857 of 2021.

2. The said writ petition was filed challenging the G.O.(Ms).No.140 (Commercial Taxes and Registration (M1) Department), dated 14.10.2021, under which, the Government of Tamil Nadu have invoked Section 34 -A of Tamil Nadu Society Registration Act and superseded the Executive Committee of the Society. This Court, by its order, dated 22.08.2022, in paragraph No.15 held as follows:

“15. In view of the above said discussions, this Court proceeds to pass the following orders:

(i) The order impugned in both the writ petitions are set aside and the matter is remitted back to the file of the first respondent herein for fresh consideration on merits and in accordance with law without being influenced by the observations made in this writ petition.



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(ii) The petitioner/Society is at liberty to offer their explanations/representation to the first respondent herein for the show cause notice, dated 28.09.2021 within a period of 15 days from the date of receipt of a copy of this order.

(iii) The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order”.

3. The Contempt Petition has been filed alleging violation of the direction issued the said order, in Paragraph Nos.14 to 16. In the contempt affidavit, it has been contended that after allowing the writ petition, the Executive Committee has chosen to issue an Election Notification, dated 27.08.2022, proposing to hold election on 18.09.2022.

4. According to the learned Senior Counsel appearing for the contempt petitioner, the very announcement of the election without waiting for the outcome of the decision to be taken by the Principal Secretary to Government is illegal and contumacious. The learned Senior Counsel further contended that, in case, if the election is conducted and new office



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bearers assume office, the entire proceedings already initiated under Section 34-A of Tamil Nadu Societies Registration Act will go in vain. He further contended that the proceedings under Section 34-A of the Act were initiated as against the committee members on the allegation of mismanagement of the Society. In case, new office bearers assumed office, they are likely to contend that they are not responsible for the alleged mismanagement and new committee cannot be superseded on the basis of the allegation levelled on the previous Executive Committee. Hence, he contended that the very announcement of the Election is nothing but violation of the order passed by this Court.

5. The learned Senior Counsel further contended that this Court has allowed the writ petition and remitted the matter back to the file of the Principal Secretary to Government for fresh consideration and also granted 15 days time to the writ petitioner to submit his explanation to the show cause notice. When the said proceedings are pending, the writ petitioner/contemnor ought not to have published the Election Notification and proceeded with the election. The proceedings are now pending before the



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Principal Secretary to Government under Section 34-A of the Act. He further contended that the show cause notice as against the existing Committee is pending. Announcing election for electing new office bearers is in violation of the entire proceedings, which was initiated under Section 34-A of Tamil Nadu Society Registration Act.

6. Per contra, the learned counsel appearing for the contemnor contended that the conduct of election was never the subject matter of the writ petition. The order dated 22.08.2022 does not reflect anything about the conduct of the election. Once the appoint of Special Officer is struck down, Executive Committee has to announce election, as contemplated under Section 15(3) of the Tamil Nadu Societies Registration Act. According to the learned counsel for the respondent, the tenure of the present office bearers had expired in December 2020 and hence, election becomes mandatory under the provisions of the Societies Registration Act.



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7. The learned counsel appearing for the respondent further contended that the present Contempt Petition has been filed under the apprehension that the Election and assumption of new office bearers will vitiate the entire proceedings under Section 34-A of the Act. According to him, it is for the new committee and members of the outgoing committee to submit an explanation in accordance with law and hence, the said apprehension is unfounded.

8. I have considered the submissions made on either side. This Court is aware of the limited scope of this Court in Contempt jurisdiction.

9. This Court has passed following order in W.P(MD) Nos.18857 and 18858 of 2021, dated 22.08.2022, in paragraph No.15 is extracted:

“15. In view of the above said discussions, this Court proceeds to pass the following orders:

(i) The order impugned in both the writ petitions are set aside and the matter is remitted back to the file of the first respondent herein for



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fresh consideration on merits and in accordance with law without being influenced by the observations made in this writ petition.

(ii) The petitioner/Society is at liberty to offer their explanations/representation to the first respondent herein for the show cause notice, dated 28.09.2021 within a period of 15 days from the date of receipt of a copy of this order.

(iii) The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. The contention in the Contempt Petition in paragraph Nos.14 to 16 is extracted:

“14. While this being so, with the intention to defeat the Orders of this Hon'ble Court dated 22.08.2022, the respondent has issued Election Notification dated 27.08.2022 in Tamil Evening daily “Malai Malar” announcing election to the Society for the triennium 2022 – 2025. As per the Notification, the date of filing the nomination is from 28.08.2022 till 06.09.2022. The withdrawal of nomination on 08.09.2022 till 8 p.m., and date of



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election will be on 18.09.2022 from 7.30 AM to 11.00 AM.

15. I respectfully submit that the above act of the respondent announcing election without waiting for out-come of the decision to be taken by the Principal Secretary to Government, Department of Commercial Taxes and Registration is illegal and contumacious. The respondent has issued the election notification only with the malafide intention to defeat the orders of this Hon'ble Court dated 22.08.2022.

16. I humbly submit that when the request for conduct of election by the petitioner was not accepted by this Hon'ble Court during the course of arguments, the respondent ought not to have issued the election notification without awaiting for the outcome of the decision to be taken by the State Government. It is also not legally possible to conduct election in a fair, transparent and in democratic manner without settling the issue addressed before the Government by appointing Special Officer and conducting suitable enquiry there on”.



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11. A reading of the operative portion of the order of this Court clearly indicate that the Government Order, under which, the committee was superseded has been set aside and the matter has been remitted back to the Principal Secretary to Government and the Society and the Members have been given liberty to file fresh explanations/ representation within a period of fifteen days from the date of receipt of a copy of that order and the Government was directed to complete the said exercise and pass orders within a period of twelve weeks. Hence, it is clear that conduct of election was not the subject matter of the writ petition. There was no positive direction in the order dated 22.08.2022, either to conduct election or not. However, the apprehension expressed by the writ petitioner is that in the event of change of office bearers, a defence is likely to be taken, that they are not responsible for any one of the mismanagement and that cannot be said to be unfounded.

12. However, in view of the limited scope of the Contempt proceedings, this Court is not in a position to exercise its Contempt



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jurisdiction. The contempt petitioner is always at liberty to approach the appropriate forum challenging the election process based on the grounds, which are raised in the Contempt Petition.

13. Accordingly, this Contempt Petition is closed.

14.09.2022

Index : Yes / No
Internet : Yes / No

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To
The Secretary,
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R.VIJAYAKUMAR,J.

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