



W.P(MD).No.19766 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 16.11.2022

ORDER PRONOUNCED ON : 22.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.19766 of 2014

and

M.P(MD).No.1 of 2014

H.Senthal @ Senthal Mohideen

.....Petitioner

Vs

1.The Inspector General of Registration
Santhome High Road
Pattinapakkam
Chennai 600 004

2.The Registrar
District Registrar Office
No.52, Sankar Agam, Thenkarai
Periyakulam
Theni District 625 601

3.The Director of Collegiate Education
EVK Sampath Building
9th & 10th Floor
College Road, Nungambakkam
Chennai 34

4.The Regional Joint Director
Collegiate Education
No.30, Vaidhyanatha Iyer Street
Shenoy Nagar, Madurai 20



W.P(MD).No.19766 of 2014

5.The Registrar
Madurai Kamaraj University
Palkalai Nagar
Madurai

6.The Vice Chancellor
Madurai Kamaraj University
Palkalai Nagar
Madurai

7.The Secretary and Correspondent
Hajee Kanutha Rowther Howdia College
Uthamapalayam 625 533
Theni District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 herein to take necessary action on the petitioner's representation to them dated 23.07.2014 within the time stipulated by this Court.

For Petitioner	: Mr.Sricharan Rengarajan For Mr.P.Mahendran
For R1 & R2	: Mr.S.R.A.Ramachandran Additional Government Pleader
For R3 & R4	: Mr.S.Kameswaran Government Advocate
For R5 & R6	: Mr.T.Sakthikumaran
For R7	: Mr.A.Thirumurthi For M/s.Victory Associates



W.P(MD).No.19766 of 2014

WEB COPY

ORDER

The present writ petition has been filed seeking a writ of mandamus directing the respondents 1 and 2 to take necessary action on the petitioner's representation dated 23.07.2014.

2. According to the petitioner, one Hajee Karutha Rowther @ Mohammed Meera had established a College in the name and style of 'The Hajee Karutha Rowther Howdia College' in the year 1956. The said College is an aided minority Institution. According to the petitioner, during the life time of the said Hajee Karutha Rowther, a society was formed for proper administration of the College in the year 1956. The bye-laws were amended in the year 1964. The bye-laws were again amended on 02.12.1994. According to the petitioner, the founder namely Hajee Karutha Rowther had six sons namely Gulam Mohideen, Jamal Mohideen, Sheik Mohideen, Kaja Mohideen, Sultan Mohideen and Darvesh Mohideen. As per the amended bye-laws, each male member from each one of the sons family should be a member of the society. In other words, there will be six members of the society for their life time. Another seven members have to be coopted by the members of the Committee for a period of three years.

3. According to the petitioner, the second son of Hajee Karutha Rowther is one Jamal Mohideen, had three sons namely Nathar Meeran,



W.P(MD).No.19766 of 2014

Hussain Meeran and Mohammed Meeran. The eldest son of Jamal Mohideen namely Nathar Meeran was representing Jamal Mohideen branch as a life member of the society. After his death, his younger brother Hussain Meeran (father of the writ petitioner) was a member of the Society. The petitioner's father was the member of the society from 2001 to 2011. On his death, the petitioner should have been made as a member of the society. However, they have selected one Rizwan Ashraf who is the son of Mohammed Meeran (who is the younger brother of the petitioner's father).

4. According to the petitioner, the eldest male member of the branch should have been made as a member of the society. In the present case, the petitioner is elder to Rizwan Ashraf who has been made as a member of the society. Hence, the membership of Rizwan Ashraf was not in accordance with bye-laws. According to the petitioner, from among the members of the society, the office bearers are being selected. The term of the office bearer is three years as contemplated under the Societies Registration Act. However the said Rizwan Ashraf is continuing to be a member of the committee from the year 2011 onwards. Hence, the continuation of Rizwan Ashraf is clearly in violation of the Societies Registration Act. Hence, the petitioner has sent a representation on 23.07.2014 to the respondents 1 and 2 to conduct an enquiry relating to the malpractices committed by the College committee. He has also made some serious allegations relating to the administration of the



W.P(MD).No.19766 of 2014

College by the said Committee. His further allegation in the representation is that the elections have not been conducted every three years. It has further been alleged that the statutory reports have not been filed before the authorities concerned. The institution being 100% aided institution, the member of the society cannot contend that it is an internal dispute and they cannot be subjected to supervision or regulation of the Act. Hence, the petitioner has prayed for a direction to the respondents 1 and 2 to conduct an enquiry into the affairs of seventh respondent College and pass orders.

5.Per contra, the learned counsel appearing for the seventh respondent had contended that there is no provision in the bye-laws to admit the eldest male member of the family. Only one of the sons could represent each branch. In the present case, the said Rizwan Ashraf is also representing Jamal Mohideen branch. The petitioner also belongs to the same branch. Both of them cannot be accommodated at the same time in view of the bye-laws. Between 2001 to 2011, the petitioner's father was representing the Jamal Mohideen branch. After his death, in order to accommodate other branch, Rizwan Ashraf has been made as a member of the society.

6.The learned counsel for the seventh respondent had further contended that the petitioner is yet to become a member of the society. Hence, he cannot invoke any provisions of the Societies Registration Act. It is not the case of the petitioner that his application to become a member was



W.P(MD).No.19766 of 2014

erroneously rejected or he was expelled from the membership illegally. As per bye-laws only one person could represent each branch and the Jamal Mohideen branch is been represented by Rizwan Ashraf. In case, if the petitioner feels that he is better placed than the Rizwan Ashraf, it is for him to approach the competent civil Court for framing of a scheme where there are competing interests between two persons belonging to the same branch. The learned counsel had further contended that the respondents 1 and 2 will not have any jurisdiction whatsoever to entertain the complaint made by the writ petitioner. The entire complaint relates to the fact that he has not been made as a member of the society. Even as per the bye-laws, only one person could represent each branch and the petitioner cannot complain that some other person from the same branch has been accommodated and he has been left out. The respondents 1 and 2 have no jurisdiction to decide such kind of dispute. Hence, he prayed for dismissal of the writ petition.

7.I have considered the submissions made on either side and perused the materials available on record.

8.As per bye-laws of the founder, the family of six sons have to be represented by six members of the society. More than six members from the family cannot be accommodated as a member of the Society. The petitioner as well as one Rizwan Ashraf belong to the same branch namely Jamal



W.P(MD).No.19766 of 2014

Mohideen branch. As per bye-laws, both of them cannot be accommodated as a member of the society at the same time. Jamal Mohideen branch was represented by one Nathar Meeran till 1999. The same branch was represented by the petitioner's father from 2001 to 2011. After his death, the petitioner's father's brother's son namely Rizwan Ashraf has been made as a member of the society. Therefore, it is clear that Rizwan Ashraf also belongs to the Jamal Mohideen branch. The petitioner claims that he is placed in a better position than the said Rizwan Ashraf to become a member of the society. As rightly contended by the learned counsel appearing for the seventh respondent, in case of competing interest, the petitioner has to approach only the competent civil Court for framing a scheme with regard to the eligibility to get appointed as a member when two or more of them from same branch are making a claim.

9.The respondents 1 and 2 cannot decide about the issue whether the petitioner is placed better than the said Rizwan Ashraf or not. The learned counsel for the petitioner has contended that on the death of the petitioner's father, he should have been appointed as one of the members. The petitioner has also made an allegation that the election has not been properly conducted in the society and if the elections are conducted for every three years, Rizwan Ashraf would have been out of office by this time. The term of office



W.P(MD).No.19766 of 2014

fixed under the Societies Registration Act, is only for the office bearers and not for the members of the society. As long as they continue to pay subscription or they are expelled from the Society, they continue to be the members of the society. The petitioner being a non member, has no locustandi whatsoever to question about the term of office of the office bearers of the society. In case, if there is a violation in the term of office or no election being conducted, it is for the other members to object and the respondents 1 and 2 can very well look into the issue. Being a non-member, the petitioner cannot even raise a dispute under Section 36 of the Societies Registration Act. Therefore, I find that the representation of the petitioner cannot be decided by the respondents 1 and 2, when they have no jurisdiction whatsoever to decide about the issue raised by a non-member of the society.

10.In view of the above said findings, I do not find any merit in the writ petition and the same is dismissed. However, the petitioner is always at liberty to approach the competent civil Court to establish his right to become a member of the seventh respondent Society, if he is so advised. No costs. Consequently, connected miscellaneous petition is closed.

22 .11.2022

Internet : Yes/No
Index : Yes/No
msa

<https://www.mhc.tn.gov.in/judis>



W.P(MD).No.19766 of 2014

To

WEB COPY

1.The Inspector General of Registration
Santhome High Road
Pattinapakkam
Chennai 600 004

2.The Registrar
District Registrar Office
No.52, Sankar Agam, Thenkarai
Periyakulam
Theni District 625 601

3.The Director of Collegiate Education
EVK Sampath Building
9th & 10th Floor
College Road, Nungambakkam
Chennai 34

4.The Regional Joint Director
Collegiate Education
No.30, Vaidhyanatha Iyer Street
Shenoy Nagar, Madurai 20

5.The Registrar
Madurai Kamaraj University
Palkalai Nagar
Madurai

6.The Vice Chancellor
Madurai Kamaraj University
Palkalai Nagar
Madurai



WEB COPY



W.P(MD).No.19766 of 2014

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.19766 of 2014
and
M.P(MD).No.1 of 2014

22.11.2022