



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22454 of 2022
and
W.M.P(MD)No.16648 & 16649 of 2022

A.S. Mohammed Ameen

... Petitioner

Vs

1.The Director of School Education
(Higher Secondary),
DPI Complex
17, College Road,
Subba Road Avenue,
Nungambakkam,
Chennai – 600 008.

2. The Chief Educational Officer
Madurai Road,
Tiruchirappalli – 620 008.

3. The District Educational Officer
Collector Office Old Campus,
Tiruchirappalli – 620 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 3rd respondent in Na.Ka.No.4881/A2/2021 dated 22.10.2021, quash the same and consequently direct the 3rd respondent to consider the



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representation, dated 28.07.2022.

For Petitioner	: Mr.N.Vallinayagam Senior Counsel for Mr.P.Arun Jayatram
For R1 to R3	: Mr.V.Om Prakash, Government Advocate

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 3rd respondent in Na.Ka.No.4881/A2/2021 dated 22.10.2021, quash the same and consequently direct the 3rd respondent to consider the representation, dated 28.07.2022.

2.Heard Mr.N.Vallinayagam, learned Senior Counsel appearing for the petitioner, Mr.V.Om Prakash, learned Government Advocate appearing for the respondents 1 to 3.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the Secretary and Correspondent of Khajamian Higher Secondary School duly appointed by the Executive Committee of the Majis-Ul-Ulama Society. The said institution is a minority institution with Government Aid. On 15.11.2015 the election of the office bearers and executive committee of the said society for the triennium 2015-2018 took place. With reference to the proceedings of the Executive Committee,



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dated 15.11.2015, the petitioner was appointed as a Secretary and Correspondent of Khajamian Higher Secondary School for the Triennium 2015.2018. Considering the representation of the petitioner, the 3rd respondent by an order, dated 09.07.2018 approved the petitioner's appointment. He further states that on 19.08.2018, the election of the office bearers and Executive Committee of the said Majis-Ul-Ulama society for the triennium 2018-2021 took place.

4. With reference to the proceedings of the Executive Committee, dated 19.08.2018, the petitioner was again appointed as a Secretary and Correspondent of Khajamian Higher Secondary School for the Triennium 2018-2021 and thus, the petitioner carried out his functions as a correspondent of the said School. He further states that on 10.09.2021, the election of the office bearers and executive committee of the Society for the triennium 2021-2024 took place. With reference to the proceedings of the Executive Committee, dated 10.09.2021, the petitioner was again appointed as a Secretary and Correspondent of the said school for the period 2021-2024. Further, with reference to the proceedings of the third respondent vide Na.Ka.No.3075/A4/18, dated 09.07.2018, the petitioner was appointed as a Correspondent of the said school with effect from 29.11.2015 and hold his office till 22.10.2021.

5. He would further states that the appointment of the petitioner for the period of



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2018-2021 was challenged in a suit in O.S.No.972 of 2018, before the III Additional

District Munsif of Tiruchirappalli:-

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“a) to grant a decree of permanent injunction restraining the 6th defendant (District Registrar, Tiruchirappalli) from filing Form-VII in respect of alleged election dated 19.08.2018 conducted by the 2nd defendant for the 1st defendant society, till the election dispute is resolved:

(b) to grant a decree of permanent injunction restraining the 4th defendant (District Educational Officer, Tiruchirappalli) from approving the 3rd defendant as a Secretary and Correspondent for the Khajamian Higher Secondary School the part of the 1st defendant society as per the alleged election dated 19.08.2018 conducted by the 2nd defendant for the 1st defendant society, till the election dispute is resolved:

6. The said suit in O.S.No.972/2018 was dismissed as withdrawn on 17.02.2022.

During the pendency of the suit, no interim order was granted. It is further submitted that even in any other suit in respect of the administration of the society no interim order granted. In the meanwhile, the third respondent through the proceedings in Na.Ka.No.4881/A2/2021, dated 22.10.2021 ordered for direct payment on the ground that the Form VII with reference to change the Committee in respect of election for the period of 2015-2018 was not approved at the Office of District Registrar, Tiruchirappalli. Further, the above said order bear further information that the suit in O.S.No.1224/2017, O.S.No.721/2018 are all pending. Further in the pending writ



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petition in W.M.P(MD)No.21691/2019 in W.P(MD)No.25095 of 2019 an interim order was also granted and no final order was passed in the above said legal proceedings and the Form-VI and VII has not been issued by the District Registrar, Tiruchirappalli. He further states that the Circular No.03/2022 in Ka.No.8413/I2/2013, dated 27.05.2002 of the Inspector General of Registration disclose a fact that the District Registrar, Tiruchirappalli has to ascertain the interim order or final order granted, if any, prior to issue Form VI and VII. With reference to administration of the society, there is no interim order was granted in respect of the election of the office bearers of the society. The interim orders dated 28.11.2019 granted in W.M.P(MD)No.21691/2019 in W.P(MD)No.25095/2019 relates to encumbering the property of the society.

7. It is further submitted that the writ petition in W.P(MD)No.25095/2019 relates to convene the election of the office bearers and executive committee member of the society for the period 2018-2021. The petitioner further submits that election of the office bearers of the society for the period 2018-2021 took place on 19.08.2018 and election of the office bearers of the society for the period 2021-2024 took place on 10.09.2021 and hence, the W.P(MD)No.25095/2019 has become infructuous. The petitioner states that since the tenure of the elected office bearers came to an end, an election notification in respect of the election of the office bearers and executive committee members for the period 2021-2024 was issued by the Society and the same



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was challenged in a writ petition in W.P(MD)No.12454 of 2021 and on 18.08.2021 the above said writ petition was dismissed. Challenging the same, writ appeal in W.A(MD)No.1750/2021 has been filed and the same was also dismissed on 09.09.2021. On 10.09.2021 as per the schedule, the election of the office bearers and executive committee members of the Society took place and the executive committee of the society appointed the petitioner as correspondent of the Khajamian Higher Secondary School, Tiruchirappalli for the period 2021-2024.

8. The petitioner states that with reference to the appointment of the petitioner as a Correspondent of the Khajamian Higher Secondary School, on 15.09.2021 a representation was submitted before the 3rd respondent and requests him to approve the petitioner's appointment as a Correspondent of Khajamian Higher Secondary School. In respect of the same, the petitioner approached the third respondent several times and the representation of the petitioner was not entertained and at last on 28.07.2022 the petitioner submitted another representation to the third respondent to recall the order of direct payment and approve his appointment as a Correspondent of the said school and till date, the representation neither considered nor rejected by the third respondent. After the completion of the election of the office bearers and executive committee members of the society, the Society has submitted the Form VI and VII before the District Registrar, Tiruchirappalli and after receipt of the Form VI and Form VII, the



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society was called on by the District Registrar, Tiruchirappalli for an enquiry and after inspection, on 04.11.2019 the District Registrar, Tiruchirappalli has approved the Form VI and VII and published the approval in their official website.

9. With reference to the election of the office bearers and executive committee members of the society for the period 2021-2024, no suits or writ petition filed by any member of the society and no interim orders are there. Challenging the appointment of the petitioner as a Correspondent of Khajamian Higher Secondary School, Tiruchirappalli no suit was filed. With reference to approval of Form VI and VII of the society in respect of the election of the office bearers and executive committee members of the society for the period 2021-2024 is under scrutiny at the office of District Registrar, Tiruchirappalli. Considering the above said facts, the appointment of the petitioner as the Correspondent of said school is bonafide and not disputed by any members of the society. With reference to administration and election of the office bearers and executive committee members of the society, several suits were instituted and the suit like O.S.No.1252/2015, O.S.No.566/2016, O.S.No.1224/2017, O.S.No. 1225/2017, O.S.No.1226/2017, O.S.No.600/2018 on the file of the Sub-Court, Tiruchirappalli are all dismissed and the other suit in O.S.No.748/2018 and O.S.No.972 of 2018, on the file of the III Additional District Munsif, Tiruchirappalli also dismissed as withdrawn. With reference to the appointment of the Correspondent of the



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Khajamian Higher Secondary School, Tiruchirappalli there is no rival claim made by any members or no suit challenging the appointment of the petitioner as a Correspondent is pending and there is no interim order granted. The petitioner having left with no other alternative remedy, he is constrained to approach this Court under Article 226 of the Constitution of India and challenging impugned order passed by the third respondent in Na.Ka.No.4881/A2/2021, dated 22.10.2021.

10. The learned counsel appearing for the petitioner would submit that the impugned order passed by the third respondent is violation of principles of natural justice. Before passing the order, the third respondent has not chosen to issue notice and asking for explanation with regard to suit and other proceedings referred in the impugned order. The third respondent has failed to consider that there is no suit or proceeding pending to challenge the election of the society for the period 2021-2024. Further, the third respondent failed to consider that the suit mentioned in the impugned order are all dismissed as withdrawn and the writ petition became infructuous in view of the subsequent election and there is no interim order prohibiting the third respondent to approve the petitioner as correspondent of the school. He failed to consider the representation, dated 28.07.2022. The impugned order passed by the third respondent is illegal and liable to be set aside.



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11. The second respondent filed counter and stating that the petitioner's school is functioning under Majisul Ulama Society. It is a fully aided Higher Secondary School and governed by Private School Regulation Act and existing Educational Rules in force. The school committee seeking approval for Secretaryship is a sub-committee of the above said society. For the approval of school committee and Secretary, Form VI & VII registered under Societies act is mandatory and only on that basis approval of School committee will be considered. He would further states that since Form-VI & VII regarding above said society and subsequent Sub-Committee (School Committee for Khajamian Higher Secondary School) was not issued so far and hence, the approval of Secretaryship and School Committee cannot be accorded as on date. For the welfare of the school staff and then other monetary benefits of them, the school is brought under Direct payment system from 22.10.2021 vide Rc.No.4881/A2/2021 dated 22.10.2021. The salary and other monetary benefits are disbursed through the Headmaster as per the claim made by the concerned School Headmaster.

12. He would further states that the representation, dated 28.07.2022 and the explanation of the writ petitioner along with its annexure indicating disposal of the civil suits are all considered and came to know that there is no interim order granted by any Court of law against the writ petitioner. There is no provision in the Private School



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Regulation Act to approve the School Education Committee retrospectively and also there are no Educational Rules for approving school education committee retrospectively. The petitioner and his faction has filed lots of suits in civil Court against rival claimants over disputes with regard to settle the rightful office bearers to run the society of Majilis Ul Ulama. Moreover, the rival claimants have also similarly filed suits in civil Court which is also pending with Court. As of now the dispute with regard to the rightful claimant to run the society of Majilis Ul Ulama is not yet settled in civil Court and on account of these facts, the District Registrar has not yet approved either Form VI or Form VII by acknowledging and authorizing the rightful members to run the society rather the District Registrar categorically denied the claim of the petitioner's faction to issue Form VII vide his letter in Na.Ka.No.8598/B4/2019, dated 15.02.2021 citing various pending civil suits between the two rival factions. Considering the pendency of civil suits over the claim for Educational Agency, the District Registrar has failed to approve Form VII declaring the rightful legitimate members to run the society. The petitioner and his faction should first make themselves eligible by getting approval from the District Registrar through Form VII to run the society legitimately and thereafter only resolution submitted by the Executive Committee to approve him as correspondent of the school will be considered for the years of 2021 to 2024 with prospective effect only after annulling the direct payment order and in no case retrospective effect could be given as it won't be legal as direct



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payment would have been in vogue in those times under the direct control of District Educational Officer and hence, the question of ratification is beyond the delegated powers vested with authorities as it won't be maintainable in law. If the proposals for the approval of Secretaryship for the current spell (2021-2024) with all necessary enclosures, from the School Management Committee is received, the Department is ready to consider the proposals on merits and pass orders according to law in force with prospective effect within the stipulated time.

13. According to the respondents, for the approval of school committee and Secretaryship, Form VI & VII registered under Societies Act is mandatory and only on that basis, approval of School Committee will be considered. Since Form VI & VII, regarding above said society and subsequent Sub Committee, was not issued so far and hence, the approval of Secretaryship and School Committee cannot be accorded as on date. For the welfare of the School staff and then other Monetary benefits of them, the school is brought under Direct payment system from 22.10.2021 vide Rc.No. 4881/A2/2021, dated 22.10.2021 and salary and other monetary benefits are disbursed through the Headmaster as per the claim made by the concerned School headmaster.

14. Now, the petitioner has filed the present writ petition challenging the impugned proceedings of the 3rd respondent in Rc.No.4881/A2/2021 dated 22.10.2021,



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quash the same and consequently direct the 3rd respondent to consider the representation, dated 28.07.2022. The Inspector General of Registration has issued circular, dated 27.05.2022 regarding the approval of Form VI and VII. It is seen that when there is no interim orders or any orders prohibiting the said Registrar from taking Form VI and VII into file then the same can be considered. It is seen from the petitioner's representation that the alleged pendency of the suits referred by the respondents in O.S.No.1252/2015, 566/2016, 1224/2017, 1225/2017, 1226/2017 and 600/2018 are all dismissed and the other suit in O.S.No.748/2018 and O.S.No.972/2018 are also dismissed as withdrawn. That being the case, there is no impediment for the authorities to decide the issue afresh. The tenure of the elected office bearers came to an end, an election notification in respect of the election of the office bearers and executive committee members for the triennium 2021-2024 was issued by the Society and the same was challenged by the petitioner in a writ petition in W.P(MD)No.12454/2021 and this Court dismissed the writ petition on 18.08.2021. Challenging the same, writ appeal was also filed in W.A(MD)No.1750/2021 and the same was also dismissed on 09.09.2021. Thereafter, on 10.09.2021 election was conducted for the period 2021-2024. The petitioner was appointed as a Secretary and Correspondent of Khajamian Higher Secondary School and he was taken charge on 10.09.2021. On 15.09.2021 the petitioner has submitted a representation before the third respondent and request him to approve the petitioner's appointment as a Correspondent of the said



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school, but the authorities have not considered the said request. In O.S.No.721/2018 is not relevant to the said society and there is no impediment or any objection for the members holding the said posts elected on 15.11.2015, 19.08.2018.

Considering the above facts, the writ petition is allowed by setting aside the impugned proceedings of the third respondent in Na.Ka.No.4881/A2/2021, dated 22.10.2021 and the respondents are directed to consider the petitioner's representation dated 28.07.2022 and pass appropriate orders afresh, after giving an opportunity of hearing, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
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To

1. The Director of School Education
(Higher Secondary),
DPI Complex
17, College Road,
Subba Road Avenue,
Nungambakkam,
Chennai – 600 008.
2. The Chief Educational Officer
Madurai Road,
Tiruchirappalli – 620 008.
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V.BHAVANI SUBBAROYAN, J.

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