



W.P.(MD)No.24809 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2022

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**THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN**

W.P. (MD) No.24809 of 2022

and

W.M.P.(MD)Nos.18887 and 18889 of 2022

N.Pothi

... Petitioner

Vs.

1.The Additional Commissioner,  
Department of Industries and Commerce,  
SIDCO Corporate Office Building,  
Guindy Industrial Estate,  
Chennai-600 032.

2.The General Manager,  
District Industries Centre,  
Alagar Kovil Road,  
Madurai-625 002.

3.The Secretary,  
The Madurai Automobile Co-operative,  
Industrial Estate Limited, Ind.No.1839,  
Uchapatti Panchayat,  
Kappalur, Madurai-625 008.

... Respondents

**Prayer :-** Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.36240/ICM/2021, dated 08.04.2022 on the file of the first respondent and the consequential order in Na.Ka.No.



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7483/Tho.Ku./2021, dated 11.04.2021 on the file of the second respondent and the order dated 12.04.2022 on the file of the third respondent and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy  
For Respondents : Mr.M.Senthil Ayyanar  
Government Advocate

### **ORDER**

This Writ Petition has been filed to quash the impugned order made in Na.Ka.No.36240/ICM/2021, dated 08.04.2022 on the file of the first respondent and the consequential order in Na.Ka.No.7483/Tho.Ku./2021, dated 11.04.2021 on the file of the second respondent and the order dated 12.04.2022 on the file of the third respondent as illegal.

2.The writ petitioner is presently a member and Director of the Board of the fourth respondent Industrial Co-operative Society/third respondent. The third respondent society was formed in the year 1991 as an Industrial Cooperative Society. It was originally meant to allot plots for setting up Automobile Units. The restriction regarding the user was later relaxed. However, only industrial units can be allowed to put up on the plots belonging to the fourth respondent Society.



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3. In the year 2012, the fourth respondent society was under the control of a Special Officer. The said Special Officer convened a general body meeting on 17.09.2012 and enrolled as many as 389 new members. The writ petitioner was one such member who was inducted on the said date. The new members participated in the subsequent elections. Some of them included the writ petitioner were even elected to the Board. Later when some controversies arose regarding allotment of plots, inspection under Section 82 of the Act was ordered. Based on the inspection report, the impugned communication came to be issued. This is put to challenge in this writ petition.

4. The issue involved in this writ petition has already been considered and decided by this Court in W.P.(MD)No.8238 of 2022 by an order dated 05.08.2022. The operative portion of the said order reads as under:

*“7.I carefully considered the rival contentions and went through the materials on record. There is no dispute that 389 members were inducted as members only by the Special Officer who was in-charge of the Society in the year 2012. Of course, he had convened the general body meeting and based on the resolution passed by the general body, the new members were enrolled. It is not in dispute that the total membership of the Society during the relevant time was 250. The bylaws clearly stipulate that  $\frac{1}{4}$  of the total membership will be the corum for holding any general body meeting. Then the corum will be 63. Admittedly, only 47 members took part in the general body meeting. That was clearly below the corum.*



8.It is further stated that notices were issued only to 94 members and not to all the 250 members. In any event as held by the Hon'ble Full Bench of this Court in the decision reported in **2006 (1) CTC 1**, a Special Officer who is appointed with a limited power to manage the Society till the election of new elected Board cannot be conferred with the power of enrollment of new members. The act committed by the Special Officer will not be justified merely because a general body which lacked the corum passed a resolution.

9.The learned counsel appearing for the impleaded respondent would remark that even a proper resolution was not passed. Be that as it may, on an illegal foundation, a superstructure cannot be allowed to come up. This error is sought to be corrected by the impugned communication dated 08.04.2022. However, I find inconsistency in the impugned communication itself. The learned Additional Advocate General would fairly states that if 389 new members could not have been enrolled, then they could not be treated as associate members also. He would also call upon this Court to sustain the impugned communication dated 08.04.2022. He informed the Court that the official respondents will not convert the new members enrolled on 17.09.2022 even as associate members. This submission made by the learned Additional Advocate General is recorded. I would expect the official respondent to act on the submission made by the learned Additional Advocate General. On instructions from the General Manager, District Industries Centre, Madurai, the learned Additional Advocate General further stated that the plots belonging to the fourth respondent Society will be put to use only for industrial purposes and not for any other purpose.”

5. Accordingly, this Writ Petition is dismissed. The petitioner is directed to ascertain whether similar petitions have been filed and decided,



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before filing any writ petition henceforth. No costs. Consequently, connected miscellaneous petitions are closed.

**03.11.2022**

Index : Yes/No  
Internet : Yes/No  
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**V.BHAVANI SUBBAROYAN, J.**

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To

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Order made in  
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