

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Reserved on : 24.06.2022****Pronounced on : 04.07.2022****CORAM****THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)Nos.10921 of 2017, 14262 of 2017, 18734 of 2017,
18825 of 2017, 19805 of 2017, 18539 of 2018, 18730 of
2018, 19651 of 2018, 21663 of 2018, 23006 of 2018, 3845 of
2019 and 11256 of 2022**

and

**W.M.P.(MD)Nos.11173 of 2017, 14036 of 2017, 14037 of
2017, 15110 of 2017, 15111 of 2017, 15192 of 2017, 15193
of 2017, 16068 of 2017, 16582 of 2018, 16583 of 2018,
17431 of 2018, 17432 of 2018, 17433 of 2018, 18207 of
2018, 18463 of 2018, 19569 of 2018, 20566 of 2018, 20904
of 2018, 20905 of 2018 and 3006 of 2019**

W.P.(MD)No.10921 of 2017 : -

Aruppukottai Town Devangar Commercial
Association,
Rep. by its Secretary, N.Gunasekaran,
S/o.Nagumani Chettiar,
No.13-A, Sowndammankovil Street,
Aruppukottai – 626 101,
Virudhunagar District.

... Petitioner

Vs.

1. The Deputy Registrar General of Registration,
Madurai.
2. The District Registrar (Administration),
Virudhunagar, Virudhunagar District.



3. Aruppukottai Town Devangar Commercial Association, Rep. By its Secretary,
G.Meenakshi Sundaram,
13-A, Sowndamman Koil Street,
Aruppukottai – 626 101,
Virudhunagar District.

4. K.Jeyasurian

(R-3 & R-4 are impleaded vide Order dated 31.07.2017
in W.M.P.(MD)No.8899 & 10774 of 2017)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to approve the Form-VII submitted by the petitioner and to issue certified copy of the same to the petitioner within the time frame as fixed by this Court on the basis of the application along with Form-VII submitted to the second respondent dated 22.05.2017.

For Petitioner : Mr.R.Ramasamy

For R-1 & R-2 : Mr.K.S.Selva Ganesan,
Additional Government Pleader.

For R-3 : Mr.Ajmal Khan, Senior Counsel
for Mr.M.Mahabob Athif

For R-4 : Mr.V.Panneer Selvam

COMMON ORDER

All these cases pertain to the administration of Aruppukottai Devangar Arts College, Aruppukottai (hereinafter referred to as “the college”. Aruppukottai Town in Virudhunagar



District has a good concentration of Kannada speaking persons belonging to Devangar community. To espouse the cause of the community, quite a few associations and groups were started. Aruppukottai Devangar Mahajana Sabah (S.No.11 of 1945) and Aruppukottai Town Devangar Commercial Association (S.No.7 of 1947) (hereinafter referred to as 'Commercial Association') were the earliest entities registered under the Societies Registration Act, 1860. On 11.05.1970, Devangar Kalluri Paribalana Sabai was registered (S.No.36/1970) (hereinafter referred to as “the paribalana sabai”). Apart from these, there was an incorporated entity known as “Aruppukottai Town Devangar Moondru Mirasugal Uravinmurai” (hereinafter referred to as “the Uravinmurai”).

2.The object of starting the Paribalana sabai was to establish an Arts College. The initiative appears to have been taken by the members of the Commercial Association and the Uravinmurai. In July 1970, the college was started. Dispute soon arose as to who can manage the college. The Commercial Association filed O.S.No.24 of 1974 on the file of the Subordinate Judge, Sivagangai, for declaration that the college is a branch



institution of the Commercial Association and that the Commercial Association is entitled to exercise overall control over the college and its affairs. After a strong contest, the suit was dismissed by judgment and decree dated 31.07.1976. Earlier O.S.No.64 of 1973 was filed by one Soundiah Chettiar seeking permanent injunction restraining the defendants therein from interfering with his functioning as Secretary and Correspondent of the college. The suit was decreed on 09.08.1977. Questioning the same, A.S.No. 162 of 1977 was filed before the Sub Court, Sivagangai. The appeal was disposed of in terms of the compromise arrived at between the parties on 31.10.1979. The compromise decree contemplated the involvement of the Commercial Association and the Uravinmurai in the constitution of the college committee. By 18.06.1983, the Paribalana Sabai became defunct. An extraordinary general body meeting of the Commercial Association was convened on 14.04.2001 and it was resolved to amalgamate the Paribalana Sabai with the Commercial Association. On 15.04.2002, the District Registrar, Virudhunagar District appointed a liquidator under Section 40(1) of The Tamil Nadu Societies Registration Act, 1975 (hereinafter referred to as "the Act") to windup the Parabalana Sabai. The liquidator issued



notice dated 01.04.2003 for convening the general body meeting of the Paribalana Sabai on 27.04.2003. This was questioned by one V.Sivapragasam in W.P.No.12815 of 2003. Quite a few interim orders and directions were passed in the said writ petition over the years. But the writ petition came to be dismissed as withdrawn on 25.11.2016. As a consequence, the special resolution passed on 27.04.2003 was given effect to by the District Registrar, Virudhunagar by proceedings dated 17.07.2018.

3. Meanwhile, appointments were made to the post of Secretary to the college. This was the subject matter of challenge in quite a few writ petitions. As already noted, all the writ petitions have been filed with the sole objective of achieving control over the management of the college.

4. Let us take the writ petitions one by one. Challenging the proceedings of the Director dated 04.10.2017 granting approval for the secretaryship of Mr.R.Ramasamy, W.P.(MD)No. 18825 of 2017 and W.P.(MD)No.18734 of 2017 were filed. By efflux of time, the writ petitions have become infructuous and they are dismissed accordingly. Challenging the proceedings dated



11.01.2019 issued by the Director of Collegiate Education by which the secretaryship of Thiru.R.Ramasamy was extended until 25.09.2019, W.P.(MD)No.3845 of 2019 came to be filed. The said period has since expired. Therefore by efflux of time, this writ petition has become infructuous. Accordingly, W.P.(MD)No.3845 of 2019 stands dismissed as infructuous.

5.Challenging the proceedings dated 08.10.2018 passed by the Director of Collegiate Education extending the Secretaryship of Thiru.R.Ramasamy till 25.09.2019, W.P.(MD)No. 21663 of 2018 was also filed. The said writ petition has also become infructuous and it is accordingly dismissed.

6.W.P.(MD)No.10921 of 2017 was filed for filing Form-VII for the period 2016-19. Since the said period has expired, W.P. (MD)No.10921 of 2017 is also dismissed as infructuous. W.P. (MD)No.23006 of 2018 was filed by one Senthilathiban challenging the order dated 08.10.2018 extension of Secretaryship of Thiru.R.Ramasamy. The petitioner himself is no more. It is also dismissed as infructuous.



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7.W.P.(MD)No.18539 of 2018 was filed by the Commercial Association seeking approval for the appointment of S.B.Senthilathiban as college Secretary. Senthilathiban himself is no more. Therefore, nothing survives for further consideration. Accordingly W.P.(MD)No.18539 of 2018 stands dismissed as infructuous.

8.W.P.(MD)No.18730 of 2018 was filed by the Commercial Association seeking approval of Form-VII for the period of 2015-16. The said period has also expired and nothing survives for further consideration. This writ petition stands dismissed as infructuous.

9.W.P.(MD)No.19651 of 2018 was filed challenging the order dated 03.08.2018 approving the Secretaryship of Thiru.R.Ramasamy. The period for which the approval was granted has also expired. W.P.(MD)No.19651 of 2018 is also therefore dismissed as infructuous.

10.Though part of the prayer made in W.P.(MD)No.19805



of 2017 has become infructuous, the petitioner therein wants this Court to direct the Director of Collegiate Education to hand over the administration of the college to Devangar Samooga Nala Vuyar Kalvi Valarchi Kuzhumam, a registered society (Registration No.213/ 2009). The petitioner in W.P.(MD)No.18734 of 2017 would seek direction for handing over the administration of the college to Aruppukottai Devangar Mahajana Sabah, Aruppukottai. The petitioner in W.P.(MD)No.14262 of 2017 wants the Commercial Association and Aruppukottai Town Devangar Moonru Mirasu Uravin Murai to keep away from the affairs of the college. The commercial association has filed W.P.(MD)No.11256 of 2022 for directing the District Registrar of Societies, Virudhunagar to take their Form-VII on file.

11. Heard the learned Senior counsel appearing for the competing parties as well as the learned Additional Government Pleader appearing for the respondents.

12. Devangar Arts College, Aruppukottai, is a linguistic minority educational institution. Subject to Article 30 of the Constitution of India, it is governed by the provisions of the Tamil



Nadu Private Colleges (Regulation) Act, 1976. Section 2(4) of the said Act defines “educational agency” in relation to minority college as any person who, or body of persons which, has established and is administering or proposes to establish and administer such minority college. Obviously, Devangar Samooga Nala Vuyar Kalvi Valarchi Kuzhumam, the petitioner in W.P. (MD)No.19805 of 2017, will not fall within the said definition. The college was founded in the year 1970. Whereas the Kalvi Valarchi Kuzhumam was registered only in the year 2009. Therefore, by no stretch of imagination can the said society be called as the educational agency of the college. Its request that the administration of the college should be handed over to itself deserves outright rejection. W.P.(MD)No.19805 of 2017 stands dismissed accordingly.

13.The prayer made in W.P.(MD)No.18734 of 2017 is for handing over the administration of the college to Aruppukottai Devangar Mahajana Sabai, Aruppukottai. It is true that this society is the earliest body having been born in the year 1945. Its object was also to improve the education system and provide amenities to the existing schools run by the community. It also



represents the community because any member of the community who has completed 21 years can become its member. It is the oldest institution and it is the most representative body. Still in as much as the college was not established by it, the prayer sought therein cannot be granted. At the same time, the contentions advanced by the the learned Senior counsel find favour with me. Therefore, I will not dismiss the said writ petition summarily.

14.The petitioner in W.P.(MD)No.14262 of 2017 was a member of the Paribalana Sabai. He would point out that O.S.No. 64 of 1973 was filed to protect the plaintiff's individual right as the college Secretary and therefore, the compromise arrived at in A.S.No.162 of 1977 cannot have any larger implication. It was submitted that a petition has been filed for recalling the order permitting withdrawal of W.P.No.12815 of 2003. The emphasis in W.P.(MD)No.14262 of 2017 is that the college does not belong to a particular Association and that the Commercial Association cannot be allowed to usurp its control.

15.I carefully considered the rival contentions and went through the materials on record. It is beyond dispute that the



Devangar Arts College, Aruppukottai was started by the

Paribalana Sabai. Paribalana Sabai was its educational agency. It

is true that the said Sabai bears the name “அருப்புக்கோட்டை டவுண்

தேவாங்கர் கமர்சியல் அசோசியனுக்கும் தேவாங்கர் பொதுவுக்கும் பாத்தியமான

தேவாங்கர் கலைக்கல்லூரி பரிபாலன சபை, அருப்புக்கோட்டை”. As per

Section 6 of the Tamil Nadu Societies Registration Act, 1975, the

memorandum of the society should specify the name of the

society. A name is just a name. One cannot infer anything

therefrom. Of course, if in the opinion of the Registrar, the name

is undesirable, it can be directed to be changed (Section 9 of the

Act). That apart, no legal consequence as such can flow from the

name of the society. I know of a young singer who is known as

Archbishop. Because he carries the said name, he cannot claim

the status of an Archbishop. The first day when the future Dr.Kim

of Aravind Eye Hospital attended Sanskrit class was hilarious.

The Sanskrit master wanted to know his name (tava nama kim).

The boy said “Kim”. The question was repeated and the same

answer was given! Some of us may be familiar with the comic

exchange in Jackie Chan's “Rush Hour 3” in which the kung-fu

master had the name “Yu”.

16.The results in the present case were far from



hilarious. The members of the Commercial Association began to think that they have a proprietary control over the college because the name of the educational agency contains the phrase “அருப்புக்கோட்டை டவுண் தேவாங்கர் கமர்சியல் அசோசியனுக்கும் பாத்தியமான தேவாங்கர் கலைக்கல்லூரி பரிபாலன சபை, அருப்புக்கோட்டை”. Merely because the name of the said society had been worded in a particular manner, that will not by itself confer any proprietary right on the Commercial Association. It is true that the name of the Paribalana Sabai suggests that it belongs to the Commercial Association and Devangar Podhu. But on that score, Commercial Association cannot claim any title over the Sabai. The right to control over the society will have be culled out from the scheme of the bylaws and not from its name. That is why, when the Commercial Association filed O.S.No.24 of 1974 on the file of the Sub Court, Sivagangai seeking declaration that the college is its branch institution and that it was entitled to exercise control over its affairs, the said suit was dismissed. The first issue that was framed in the suit was as follows :

“Whether the Commercial Association is exclusively entitled to the suit college and whether it is exclusively entitled to be in management thereof”?

The trial Court after conducting an elaborate trial, answered the



issue against the Commercial Association. The said finding became final and holds good even as on date. The compromise decree in A.S No.162 of 1977 cannot supersede the aforesaid finding. However, subsequent developments that have taken place cannot be lost sight of by this Court. The fact remains that the Paribalana Sabai became defunct. A liquidator was appointed. He convened the general body meeting. A special resolution was passed for amalgamating its assets with that of the Commercial Association. Of course, even before the meeting was convened, it was put to challenge in W.P.No.12815 of 2003 and interim order was also granted. The resolution on the face of it appears to be in breach of the interim order granted by the Court. But it is not known as to whether the interim order was communicated to the liquidator in time. In any event, subsequent orders passed by the Court do not appear to have taken cognizance of this aspect. The resolution was not set aside. When the writ petition itself came to be eventually withdrawn, I cannot assume that the subsequent proceedings dated 17.07.2018 issued by the District Registrar, Virudhunagar District giving effect to the special resolution is void or illegal. The Hon'ble Supreme Court in the decision reported in **2022 (1) SCC 209 (Amazon.Com Nv Investment V. Future**



Retail Limited) reiterated the well known proposition that no order bears the stamp of invalidity on its forehead and it has to be set aside in regular Court proceedings as being illegal. The proceedings of the authorities have a statutory flavour and I cannot ignore them. Till the order permitting withdrawal of W.P.No.12815 of 2003 is recalled, these proceedings will hold good. It is because of this reason that I am not in a position to grant the relief sought for in W.P.(MD)No.14262 of 2017.

17.The prayer in W.P.(MD)No.11256 of 2022 is only for directing the District Registrar of Societies, Virudhunagar to take on file Form-VII filed by the Commercial Association for the period between 29.09.2019 and 28.09.2022. No exception can be taken to the said request. If any rival meetings had been held and two sets of Form-VII had been submitted, then, the Registrar can possibly be in doubt. But in the case on hand, there is no rival claim or submission of another Form-VII. Only one Form-VII has been filed before the District Registrar. It has been held by the Full Bench of Madras High Court in ***C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee V. District Registrar, Cheranmahadevi (2005 SCC OnLine Mad***



238) that the filling of Form-VII is more a ministerial act. There is absolutely no justification for refusing to file the same. The Inspector General of Registration has issued Circular No.03/2022 Ka.No.8413/I2/2013 dated 27.05.2022 directing the Registrars to withhold the filing of Form-VII only if there is any restraint order passed by the competent Court. Pendency of litigation cannot come in the way of the Registrar from performing his ministerial functions. Since there is no restraint order and there is no rival claim, the District Registrar of Societies, Virudhunagar District, is directed to file Form-VII submitted by the Commercial Association on 01.08.2019 for the period between 29.09.2019 and 28.09.2022. W.P.(MD)No.11256 of 2022 stands allowed.

18.I have already noted that O.S.No.24 of 1974 filed by the Commercial Association claiming exclusive control over the college was rejected. The second issue framed in the said suit was whether apart from the members of the plaintiff Association, Devangar community in general living in and around Aruppukottai Town are entitled to be in management of the college. The learned trial Judge after an elaborate consideration of the evidence on record gave a categorical finding that the persons belonging to the entire Devangar community residing in and around



Aruppukottai are entitled to participate in the management of the college. This decree rendered in O.S.No.24 of 1974 and the findings rendered therein still hold the field. They have not been superseded. In these circumstances, two courses of action are available to the persons who are opposed to the Commercial Association. They can either pursue the petitions filed for recall of the order permitting withdrawal of W.P.No.12815 of 2003 or to institute a representative suit or petition for framing a scheme for administration of the college in which all the members of Devangar community can have a say. If such a petition or suit is filed, obviously a scheme in consonance with the findings rendered in O.S.No.24 of 1974 on the file of the Sub Court, Sivagangai can be framed after setting aside the proceedings of the District Registrar, Virudhunagar issued on 17.07.2018 giving effect to the special resolution dated 27.04.2003. The Commercial Association will be entitled to be in management and control of the college only till such a scheme is framed. If such a representative suit or petition is filed before the jurisdictional civil Court, the same will be disposed of within a period of twelve months after such filing.



19.With such liberty to the petitioners in W.P(MD).No. 18734 of 2017 and W.P.(MD)No.14262 of 2017, W.P.No.18734 of 2017 and W.P.(MD)No.14262 of 2017 are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.07.2022

Index : Yes / No
Internet : Yes/ No
pmu/skm

To:

- 1.The Deputy Registrar General of Registration,
Madurai.
- 2.The District Registrar (Administration),
Virudhunagar, Virudhunagar District.

G.R.SWAMINATHAN, J.



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18

W.P.(MD)NO.10921 OF 2017

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W.P.(MD)No.10921 of 2017
& batch

04.07.2022