



WP No.9341 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-03-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.9341 of 2010

And

MP Nos.1 and 2 of 2010

Jeets Tex Employees Welfare Society,
(Regn.No.84/1991),
Represented by its Secretary Mr.S.Krishnamoorthy,
No.61/2A, Lal Bahadur Colony,
Bharathi Nagar Cross Road-5,
Peelamedu Post,
Coimbatore-641 004. .. Petitioner

VS.

- 1.The Inspector General of Registration,
(Appellate Authority under the
T.N.Societies Registration Act, 1975),
Santhome,
Chennai-600 004.
- 2.District Registrar,
(Authority under the
T.N.Societies Registration Act, 1975),
Coimbatore District,
Coimbatore.



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3. Jeets Tex Employees Housing Unit,
Kudiyiruppor Nala Sangam (Regd.No.153/08)
Represented by its President M.Thomas,
No.38/10-A, Narayanasamy Layout,
3rd Cross Street, Rathinapuri Post,
Coimbatore-641 027.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent herein dated 30.12.2009/13.01.2010 in Pa.Mu.No.62883/09/Ai.1, quashing the same and to consequently direct the first respondent to set aside the order dated 18.10.2007 passed by the second respondent herein and published in Part VI in Annexure to Section 1 of the Tamil Nadu Gazette dated 21.11.2007 in so far as it relates to Serial No.79 mentioning Society No.84/1991-Jeets Tex Employees Welfare Society, the petitioner herein, effecting its removal from the Register under Section 44(4) of Act 27 of 1975.

For Petitioner : Mr.M.Balasubramanian

For Respondents-1 and 2 : Mr.K.Tippusulthan,
Government Advocate.

For Respondent-3 : Mr.V.Sivakumar



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ORDER

The order impugned dated 30.12.2009 passed by the first respondent and the Tamil Nadu Government Gazette dated 21.11.2007 are sought to be quashed in the present writ petition.

2. The petitioner is Jeets Tex Employees Welfare Society, which is registered under the Tamil Nadu Societies Registration Act. Action was initiated by the Competent Authorities to cancel the registration on the ground that the petitioner-Society had failed to file its Annual Returns in compliance with the provisions of the Act and the Rules.

3. It is not in dispute that the respondents through Tamil Nadu Government Gazette notified that the registration of the petitioner-Society was cancelled and became defunct by invoking Section 44(4) of the Tamil Nadu Societies Registration Act, 1975.

4. The learned counsel for the petitioner mainly contended that



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the procedures as contemplated under Section 44 of the Tamil Nadu Societies Registration Act, 1975 had not been followed and no notice with an opportunity was provided to the writ petitioner to defend their case and to submit their documents. Thus the order impugned and the Government Gazette Notification are in violation of Section 44 of the Tamil Nadu Societies Registration Act, 1975.

5. Section 44 of the Tamil Nadu Societies Registration Act, 1975 contemplates removal of defunct registered Societies. Sub Section (1) to Section 44 stipulates that “Where the Registrar has reasonable cause to Removal of believe that a registered society is not carrying on business defunct or in operation, he shall send to the registered society by registered post a letter enquiring whether the society is carrying on business or in operation”.

6. Sub Section (2) to Section 44 contemplates the further



procedures. Therefore, it is mandatory that a notice is to be issued prior to the publication of the Government Gazette, enabling the Society concerned to defend their case.

7. The learned Government Advocate, appearing on behalf of the respondents 1 and 2 made a submission that notice was issued to the writ petitioner. However, the files were destroyed. The learned Government Advocate, appearing on behalf of the respondents 1 and 2 produced the original files relating to registration of Societies, wherein there is no indication regarding issuance of notice to the writ petitioner.

8. In view of the fact that there is no reference regarding the notice issued to the writ petitioner and the documents are also not available with the respondents, this Court is unable to form an opinion as to, whether the procedures as contemplated under Section 44 of the Tamil Nadu Societies Registration Act, 1975 had been complied with or not. The benefit of doubt in this regard should go in favour of the writ petitioner.



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9. Since the respondents are unable to establish that they have issued notice as contemplated under Section 44 of the Act, the matter is to be remanded back for the purpose of providing an opportunity to the writ petitioner for submitting their documents, defence etc.

10. This being the factum, the impugned order passed by the first respondent dated 30.12.2009/13.01.2010 in Pa.Mu.No.62883/09/Ai.1 and the order dated 18.10.2007 passed by the second respondent herein and published in Part VI in Annexure to Section 1 of the Tamil Nadu Gazette dated 21.11.2007 are quashed and the matter is remanded back to the second respondent-District Registrar, who in turn, shall issue notice as required under Section 44 of the Act and thereafter conduct an enquiry based on the reply or defence submitted by the writ petitioner and pass appropriate orders on merits and in accordance with law by following the procedures as contemplated.



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11. The learned counsel for the third respondent states that the third respondent also may be permitted to participate in the enquiry.

12. It is needless to state that the issues are to be resolved after hearing all necessary parties, who all are having interest in respect of the petitioner-Society or otherwise.

13. The second respondent is directed to complete the said exercise and pass appropriate final orders as expeditiously as possible.

14. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

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S.M.SUBRAMANIAM, J.



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