



W.P.No.8759 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.8759 of 2023

and

W.M.P.No.8942 of 2023

EK.Suresh

...Petitioner

Vs.

1. The District Registrar,
District Register Office,
Virudhachalam, Cuddalore District.

2. The Registrar of Societies Virudhachalam,
Cuddalore District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of 1st respondent relating to (CSMESRO) CSM Educational Social Research Organisation letter dated on 24.02.2023, and may be quashed the same.

For Petitioner : Mr.K.Gajendiran

For Respondents : Mr.U.Bharanidharan, AGP



W.P.No.8759 of 2023

ORDER

WEB COPY

This Writ petition has been filed seeking quashment of the letter of the 1st respondent dated 24.02.2023 relating to (CSMESRO) CSM Educational Social Research Organisation.

2. Mr.U.Bharanidharan, learned Additional Government Pleader takes notice for the respondents. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that he is the Secretary of CSM Educational Social Research Organisation (in short 'CSMESRO'), a Society registered under the Societies Act, bearing New Registration No.36 of 2022 and there are 31 members in the said Society. While so, due to some internal dispute between the members of the Society, though Form-7 was said to have been filed, however, the District Registrar did not entertain the same on account of objections raised by the certain other members in the Society, which culminated in passing of the present impugned order. Challenging the same, the petitioner has come up with this Writ petition.

4. Learned counsel for the petitioner submitted that, though it was



W.P.No.8759 of 2023

mentioned as 6 members in the impugned letter, however, the Form VII was signed by 8 members which is sufficient for approving the Form VII . While so, without considering the same, the 1st respondent has mechanically passed the present impugned letter. Hence, he prayed for appropriate orders.

5. Learned Additional Government Pleader appearing for the respondents submitted that, as per the bylaws of the Society, Form VII should have been approved by at least 2/3rd members of the Society, however, only 8 members have signed the Form VII , which is insufficient. He further submitted that, the issue involved in this Writ petition is no longer *res integra* and the same has been squarely covered by the Hon'ble Apex Court reported in **2005 (2) CTC 161**, wherein the Apex Court had held that, in the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose and if is not satisfied as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the civil Court for appropriate orders and thereafter shall act as per the orders of the civil Court. Further, he fairly submitted that, in the present case, instead of rejecting the claim and directing the petitioner to



W.P.No.8759 of 2023

approach the Civil Court, the 1st respondent has merely kept the Form-VII in abeyance and, therefore, this Court may issue appropriate direction.

6. Heard learned counsel on either side and perused the materials available on record.

7. Admittedly, the petitioner conducted General Body meeting and inducted some persons and removed several persons and, thereafter, Form VII was submitted along with the signature of eight (8) persons. Though in the letter, it is stated as six persons, however, it has been signed by eight persons. It is not in dispute that for the purpose of approving Form VII, signature of a minimum of 2/3rd members is required.

8. Be that as it may. A perusal of the material documents placed on record, particularly the decision of the Hon'ble Apex Court reported in **2005 (2) CTC 161** reveal that, either the Registrar upon satisfaction of the particulars furnished in Form VII, should enter the names in the register maintained for that purpose and if not satisfied with the particulars, the Registrar has to direct the parties to approach the civil Court for appropriate



orders and thereafter act as per the orders of the civil Court. For better

appreciation, the relevant portion of the said order is extracted hereunder:

“20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of Sub-Section (9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence the power of the Registrar to issue such direction under Sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only resort to the power under Section 37 to cancel the registration. Hence, the power under Sub-Section (9) of Section 36 cannot be stretched to a power on the Registrar to direct the registered society to hold fresh election. A direction to hold fresh election would amount to indirectly setting aside the earlier election and such power is not conferred on the Registrar under any of the provisions of the Act. So long as the election is not declared invalid in the manner known to law, no direction for fresh election



WEB COPY



W.P.No.8759 of 2023

could be ordered. Validity of the election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the civil Court for appropriate orders and thereafter shall act as per the orders of the civil Court. Accordingly, the issue is answered. Post the Writ Appeals for disposal accordingly.”

However, a perusal of the materials in the aforesaid case reveals that without resorting to the said procedure, the Registrar had merely held Form-VII without passing any orders, which is impermissible.

9. In view of the aforesaid decision, this Court grants liberty to the petitioner to approach the competent Civil Court to workout the remedy in the manner known to law and pursuant to the orders passed by the Civil Court the 1st respondent is directed to pass appropriate orders on the Form-VII submitted by the petitioner.



W.P.No.8759 of 2023

10. With the aforesaid directions, this Writ Petition stands disposed

of. No costs. Consequently, connected Miscellaneous petition is closed.

21.03.2023

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

1. The District Registrar,
District Register Office,
Virudhachalam, Cuddalore District.
2. The Registrar of Societies Virudhachalam,
Cuddalore District.



WEB COPY



W.P.No.8759 of 2023

M.DHANDAPANI., J.

skt

W.P.No.8759 of 2023
and
W.M.P.No.8942 of 2023

21.03.2023