



W.P.No.13746 of 2021
WMP.No.14586 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2023

CORAM: JUSTICE N.SESHASAYEE

WP.No.13746 of 2021
& WMP.No.14586 of 2021

Kairali Social & Welfare Centre,
(KSWC) Madras,
Rep by its General Secretary,
Mr.K.Naveen,
having registered office at
No.1, Siathamman Kovil Street,
Agraharam, Korattur,
Chennai – 600 076.

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,
Rep by Secretary to Government,
Registration Department,
Secretariat, St Fort George,
Chennai – 600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalai Puram,
Chennai – 600 028.
- 3.The District Registrar (Administration),
Cum Registrar of Societies,
Chennai Central,
No.268, Bharathi Salai,
Express Estate, Royapettah,
Chennai – 600 014.

...Respondents



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Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings in G.O.Ms.7 dated 20.02.2013, as communicated by the 3rd respondent to the petitioner vide letter dated 29.04.2021, and to quash the same in so far it relates to the petitioner herein (Sl.No.147) and to consequently direct the 3rd respondent to accept the annual returns filed by the petitioner society.

For Petitioner : Ms.Gopika Nambiar
for Mr.Govind Chandrasekhar
For Respondents : Mr.V.Manoharan,
Additional Government Pleader

ORDER

The petitioner was a registered Society under the Tamil Nadu Societies Registration Act and its affairs were managed by a Managing Committee as per its provisions. Up till 2009, it was annually submitting its accounts as contemplated under Section 44 (3)(b) of the Act. However, from and after 2009, the Managing Committee that was then in charge of the affairs of the Society, defaulted in complying with the regulations of submitting the documents required to be submitted in terms of Section 44(3)(b).



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While so, when the new Managing Committee of the Society resumed charge in 2019, it proceeded to comply with the requirements of Section 44(3)(b).

2.For default in filing the necessary documents required to be filed in terms of Section 44(3)(b), the Society has been declared defunct. The petitioner now moved the Registrar of Societies for renewal of the Society. This was rejected by the third respondent Vide his proceedings dated 29.04.2021. This is now under challenge.

3.M/s.Gopika Nambiar, learned counsel for Mr.Govind Chandrasekhar appeared on behalf of the petitioner and submitted that the stature provides a procedure before a society could be declared defunct. In terms of Section 44 (3)(b), when the Society has not filed any of the papers referred to in Section 16(3)(b) of the Act before the Registrar for three consecutive financial years, then the Registrar may notify the same in the Government Gazette, and send to the Registered Society concerned by a registered post, like notice as provided in Sub Section 3(2). The



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WEB COPY petitioner's only grievance is that at no time the petitioner's Society was given an opportunity before the impugned notification was made.

4.Mr.V.Manoharan, learned Additional Government Pleader appearing for the respondents submits that in terms of the counter, the petitioner was informed since 16.03.2011 about the need for filing annual statement contemplated under Section 44(3)(a). Since it was not done, the petitioner's Society was struck off from the Register and the same was published.

5.The learned counsel for the petitioner would now reply; (a) that the counter merely says that a Gazette publication was made on 16.03.2011 and that it does not say a notice was given. (b) secondly, the petitioner is entitled to be considered for a renewal of Registration in terms of Section 44(5)(b) but, it was not even given an audience before the impugned proceedings rejecting the petitioner's prayer for renewal was considered.

6.The grievance of the petitioner is twofold;



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(a) It was not heard before it was declared defunct;

(b) It was not heard before its application for renewal was rejected;

7.Any proceedings passed against the rule of *audi alteram partem* deserves to be interfered by this Court. Accordingly, this Court sets aside the impugned proceedings dated 20.02.2013 and remands the matter back to the third respondent, who will now hold an enquiry after giving an opportunity of being personally heard by the representative of the petitioner and decide the issue within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8.The Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

25.07.2023

Index : Yes/No
Internet : Yes/No
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N.SESHASAYEE, J.,

Tsg

To

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