



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.01.2023

Pronounced on : 25.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.Nos.33184 & 34473 of 2022

and

W.M.P.Nos.32599 & 33920 of 2022

A.Rajendran

.. Petitioner in both WPs.

Vs.

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai – 600 004.
- 2.The District Registrar,
Registrar of Societies,
Thiruvarur,
Thiruvarur District.
- 3.Thiruvarur Vijayapuram Chamber of Commerce
Rep.by its President Mr.C.Balamurugan,
Bye-Pass Road,
Thiruvarur – 610 001.
- 4.Arun Gandhi,
Election Officer / Member,
Thiruvarur Vijayapuram Chamber of Commerce,



Sundaramuthu Coir Factory,
Akkarai Street,
Thiruvarur – 610 001.

... Respondents in W.P.No.33184 of 2022

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai – 600 004.
- 2.The District Registrar,
Registrar of Societies,
Thiruvarur,
Thiruvarur District.
- 3.Thiruvarur Vijayapuram Chamber of Commerce
Rep.by its Then General Secretary Mr.C.Kumaresan.
No.43, Palsons Radios,
VRM Road,
Thiruvarur – 610 001.
- 4.Thiruvarur Vijayapuram Chamber of Commerce
Rep.by its President Mr.C.Balamurugan,
Bye-Pass Road,
Thiruvarur – 610 001.
- 5.R.Ravi.
Chartered Accountant,
No.3-H/5, Panagal Road,
Thiruvarur – 610 001.

... Respondents in W.P.No.34473 of 2022

Prayer in W.P.No.33184 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent herein to stay all further proceedings in pursuance of the election notice dated 20.11.2022 by the 3rd and 4th respondents herein and



not to conduct the election for selection of office bearers and executive committee of Thiruvarur Vijayapuram Chamber of Commerce a registered society under the Tamil Nadu Societies and Registration Act, 1975 on 13.12.2022.

Prayer in W.P.No.34473 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents herein to conduct a proper enquiry with the submitted inspection reports by the District Registrars dated 01.09.2015 and 21.01.2016 and with the available and submitted records on the file of the 1st and 2nd respondents herein with regard to misfeasance and malfeasance committed by the present office bearers of the Thiruvarur Vijayapuram Chamber of Commerce, a registered society under the Tamil Nadu Societies and Registration Act, 1975.

In both WPs:

For Petitioner

.. Mr.B.Ramamoorthy

In W.P.No.33184 of 2022:

For R1 & R2

.. Mr.U.Bharanidharan,
Additional Government Pleader,

For R3 & R4

.. Mr.N.Manoharan

For R5

.. Mr.C.Harish



In W.P.No.34473 of 2022:

For R1 & R2

.. Mr.U.Bharanidharan,
Additional Government Pleader,

For R3

.. Mr.N.Manoharan

For R4

.. Mr.P.S.Prabu

COMMON ORDER

Both the writ petitions have been filed by the same petitioner A.Rajendran son of Arokiayasamy, primarily raising grievance against the manner in which the administration of Thiruvarur Vijayapuram Chamber of Commerce, a registered society under the Tamil Nadu Societies Registration Act, 1975 (the Act) was being conducted.

2.W.P.No.33184 of 2022 has been filed in the nature of Mandamus seeking a direction against the 2nd respondent, the District Registrar, Registrar of Societies, Thiruvarur District to stay all further proceedings consequent to the election notice dated 20.11.2022 issued by the 3rd and 4th respondents namely, the President, C.Balamurugan of Thiruvarur



Vijayapuram Chamber of Commerce and Arun Gandhi, the Election Officer / Member, Thiruvarur Vijayapuram Chamber of Commerce. The election was for the selection of office bearers and executive members of the society.

3.W.P.No.34473 of 2022 has also been filed in the nature of Mandamus seeking a direction against the 1st and 2nd respondents namely, the Inspector General of Registration at Chennai and the District Registrar, Registrar of Societies at Thiruvarur, to conduct an enquiry with respect to the inspection reports of the District Registrar dated 01.09.2015 and 21.01.2016 with the records submitted and available with the 1st and 2nd respondents relating to the administration of the office bearers of Thiruvarur Vijayapuram Chamber of Commerce, Thiruvarur.

4.Since arguments in both the writ petitions overlapped and the grievances of the petitioner in both the writ petitions also overlapped, a common order is passed in both the writ petitions.



W.P.No.33184 of 2022:

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5. In the affidavit filed in support of W.P.No.33184 of 2022, the writ petitioner, claiming to be a member of Thiruvarur Vijayapuram Chamber of Commerce stated that the office bearers had been elected in violation of the bye laws in the year 2015. The petitioner claims that he had given a representation relating to misappropriation of the funds of the society. He also stated that the 1st respondent namely, the Inspector General of Registration, had directed the 2nd respondent, the District Registrar, Registrar of Societies, Thiruvarur, to inspect the society. Inspections were conducted on 09.01.2015 and again on 21.01.2016. It was stated that inspite of the inspection report, wherein according to the petitioner, violations were found, no actions were taken against the office bearers.

6. In this connection, the petitioner had also earlier filed W.P.No.35530 of 2015 seeking fresh elections to be conducted with the eligible members and to also conduct an enquiry relating to the misfeasance and malfeasance allegedly committed by the office bearers. A learned Single Judge of this Court had passed an order and it is claimed that it had been observed that the inspection conducted showed that the Executive



Committee members had been selected even without conducting the elections and that the audit statement for the year 2021 – 2022 reflected that a sum of Rs.53,800/- was paid for the purpose of enrolment of new members. It was also stated that 487 members were added illegally. It was also stated from the inspection report on 29.01.2022 that the bye laws of the society were corrected and amended by the members of the General Body against the provisions of the Tamil Nadu Societies Registration Act, 1975. It was further stated that there were 789 members in the year 2012. However, the Election Officer conducted the election on 27.12.2020 with 1200 members.

7. There was yet another writ petition in W.P.No.6927 of 2022, filed by another member seeking disposal of his representation dated 31.01.2022. The petitioner claimed that the bye laws were unlawfully amended and 487 members had been illegally enrolled. It was also stated that the elections were not conducted in the year 2018. It was also stated that the election notification dated 20.11.2022 had been issued against the bye laws of the society and it was stated that, if the elections are permitted to be conducted with the added 487 members it would be in violation of the rules and



regulations. It was under those circumstances that the said writ petition in W.P.No.33184 of 2022 had been filed.

8.In the counter filed by the 2nd respondent / District Registrar, Registrar of Societies, Thiruvarur, it had been stated that the society namely, Thiruvarur Vijayapuram Chamber of Commerce was registered under the Tamil Nadu Societies Registration Act, 1975, on 27.05.1955. It was originally situated with the territorial jurisdiction of Nagapattinam till 25.04.2022. Thereafter, the Government of Tamil Nadu by G.O.No.46, Commercial Tax and Registration Department, dated 25.03.2022 established the District Registrar at Thiruvarur and from 26.04.2022, the 3rd respondent society was under the control of the 2nd respondent. It was further stated that the entire files were forwarded to the 2nd respondent only on 16.09.2022.

9.It was stated that the writ filed questioning election notification is not maintainable and in this connection reliance was placed on the Full Bench judgment reported in **2005 (2) CTC 161 (Mad), C.M.S. Evangelical Suvi David Memorial Higher Secondary School Committee, Karisal Vs. The District Registrar Cheranmahadevi, Tirunelveli District and others**. It



had been further very specifically stated that the petitioner had relied only on the Form – VI of the 3rd respondent society, filed in the year 2012 – 2013. It was further stated that it is seen from the inspection report dated 01.09.2015 and 21.01.2016, there were 1084 members in the 3rd respondent society. Thereafter, the 3rd respondent society had filed Form – VII with delay for the years 2013 – 2021. The papers are with the 1st respondent, seeking condonation of delay.

10. It was further stated that the claim of the petitioner that there were 789 members is not correct. It was further stated that every member whose name is entered in the Register of Member is eligible to vote in the election in accordance with the Rule 10(a) of the Bye Laws of the society. It was also stated that under Section 14 of the Tamil Nadu Societies Registration Act, 1975, a Register of Members will have to be maintained. It had been stated that the said registrar shall be kept open for the inspection. It had been stated that Form – VI maintained by the 3rd respondent had not been produced by the petitioner. With respect to the fees paid for enrolment of new members, it was stated that the Act provides for condonation of delay in filing by the society. It was also stated with respect to the inspection



reports, that a notice had been issued by the District Registrar Nagapattinam and an order had been passed on 01.06.2016 rejecting the reasons given by the then General Secretary towards utilization of funds for gifts and necessary action had been taken under Section 25(3) of the Act. It was stated that the writ petition should be dismissed.

11.In the counter affidavit filed by the 3rd respondent namely, the President of Society, it had been stated that the writ petitioner was not a member of the society. It had been stated that a resolution had been passed on 30.10.2012 requesting the petitioner and four other members to stop their unwarranted activities. Thereafter, the 3rd respondent had passed a resolution on 16.09.2013, by placing the petitioner and four other members under suspension from the membership for a period of one year. The petitioner and the two others had given an undertaking letter on 29.01.2014 and sought revocation of the suspension. The suspension was also revoked by a resolution dated 29.01.2014 passed in the General Body Meeting.

12.However, the petitioner continued to act against the interests of the society. In the General Body Meeting on 12.07.2016, a resolution was



passed removing the petitioner from the membership of the society. It was thus stated that the petitioner was not a member and therefore, had no locus to maintain the writ petition.

13.It had also been stated that in accordance with the bye laws, a resolution was passed on 15.11.2022 to appoint an Election Committee consisting of 13 members to conduct the election on 17.11.2022. The 4th respondent was appointed as the Election Officer and Dr.P.Sentil was appointed as the Deputy Election Officer. The election schedule had been issued on 20.11.2022 for conducting the elections on 13.12.2022. It had been stated that nominations had been received and final list of candidates had been published on 07.12.2022. Elections were also conducted on 13.12.2022. This Court had directed that the election shall go on, but the results shall not be published. It had been stated that the petitioner had come to Court without disclosing the correct facts. It had been stated that the writ petition should be dismissed and the results should be declared.

14.The 4th respondent, Election Officer had also filed a counter affidavit disclosing the schedule for the election, which was conducted on



13.12.2022. It had been stated that the elections had been conducted in a fair manner. It had been stated that the petitioner is not a member and cannot question the process of election.

15.During the course of hearing the 4th respondent also forwarded the results of the election in a sealed cover to the Court. It was urged that the writ petition should be dismissed.

W.P.No.34473 of 2022:

16.In the affidavit filed in support of the writ petition, the petitioner stated that the total registered members in accordance with Form – VI maintained under Section 14(i) of the Tamil Nadu Societies Registration Act, 1975 was only 789 members. It was stated that an additional 602 members had been added unlawfully. It was stated that the petitioner was one of the 789 members. It was stated that the elections were permitted to be conducted with 1391 members much against the bye laws of the societies. It was also stated that the petitioner had earlier filed W.P.No.35530 of 2015 and the High Court had directed examination of the representation given by



the petitioner within a period of three months. The petitioner had also filed a contempt petition in Cont.P.No.2440 of 2016 and the respondents had produced an order dated 01.06.2016. It is complained that the said order was passed without proper hearing. It was stated that the officer bearers of the 3rd respondent society did not follow the bye laws of the society. There was financial misappropriation and enrolment of ineligible members. It was also stated that the change in members was not registered in Form – VII in accordance with Section 15(2) and Rule 17(2) of the Tamil Nadu Societies Registration Act and Rules. It was stated that an inspection was conducted by the then District Registrar on 01.09.2015 and it was found that several illegalities were made in the year 2014 – 2015 by the present office bearers. It was stated that a subsequent inspection report dated 21.01.2016 also confirmed the illegalities made by the present office bearers. It was however stated that the 1st and 2nd respondents had not taken any effective step and it was under those circumstances, that this writ petition has been filed seeking a direction against the 1st and 2nd respondents to take action against the office bearers of the 3rd respondent society, consequent to the inspection reports dated 01.09.2015 and 21.01.2016.



17. The 4th respondent had filed a counter affidavit, wherein, it had been reiterated that the petitioner had been removed as a member of the society by resolution of the General Body Meeting on 12.07.2016. It had been stated that the elections had been conducted on 13.12.2022 and the results had been forwarded in a sealed cover to the Court. It had been further stated that the membership list has to be updated every year after taking note of the death of the existing members and addition of new members in accordance with the provisions of the Act and bye laws. It had also been stated that every year the membership increased owing to development of new business activities and expansion of business opportunities. It had been further specifically stated that the new members had not been added, but that the membership list was updated. It was further stated that every application seeking membership had been thoroughly scrutinized and only thereafter were the members enrolled. It had been further stated that pursuant to the order dated 04.11.2015 a notice dated 24.02.2016 had been issued by the 2nd respondent and an explanation had also been given on 02.03.2016. An order had been passed by the 2nd respondent on 01.06.2016. It had been stated that since order had been passed, the petitioner cannot re-agitate the same issue after a lapse of ten



years. It had been stated that the petitioner has put forth issues, which had become stale and it was stated that the writ petition should be dismissed.

18. In the counter affidavit filed in W.P.No.33184 of 2022, the 2nd respondent / District Registrar had also confirmed that the District Registrar Nagapattinam had passed an order on 01.06.2016 and had rejected the reasons assailed by the then General Secretary towards utilization of funds for gifts and had informed the society that necessary action will be taken under Section 25(3) of the Act.

Discussion and Conclusion:-

19. Heard arguments advanced in both the writ petitions by Mr.B.Ramamoorthy for the petitioner, by Mr.U.Bharanidharan, learned Additional Government Pleader for the 1st and 2nd respondents in both the writ petitions, by Mr.N.Manoharan, learned counsel for the 3rd respondent in W.P.No.33184 of 2022 and for 3rd and 4th respondents in W.P.No.34473 of 2022, by Mr.P.S.Prabu, learned counsel for the 4th respondent in W.P.No.33184 of 2022 and by Mr.C.Harish, learned counsel for the 5th respondent in W.P.No.34473 of 2022.



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20.The petitioner, A.Rajendran, claims to be a member of the 3rd respondent namely, Thiruvarur Vijayapuram Chamber of Commerce at Thiruvarur. The said society, had been registered under the Tamil Nadu Societies Registration Act, on 27.05.1955 under the Reg. No.5/1955. It was originally situated with the territorial jurisdiction of the District Registrar, Nagapattinam till 25.04.2022. Thereafter, the Government of Tamil Nadu by G.O.No.46, Commercial Tax and Registration Department, dated 25.03.2022 established the office of District Registrar at Thiruvarur and from 26.04.2022, the 3rd respondent had come under the jurisdiction of the 2nd respondent / District Registrar, Thiruvarur. It is also seen that the entire records relating to the society has also been forwarded to the District Registrar, Thiruvarur on 16.09.2022.

21.Even though the petitioner claims to be a member of the society, it is the consistent stand of the 3rd and 4th respondents that the petitioner had been removed from membership by a resolution of the General Body Meeting dated 12.07.2016. It was their stand that even earlier, since the petitioner had acted against the interest of the 3rd respondent, the Executive



Committee had passed a resolution on 30.10.2012 requesting the petitioner and four others to stop their unwarranted activities. Since they had not done so, a resolution was passed on 16.09.2013 by the 3rd respondent, placing the petitioner and four others under suspension from membership for a period of one year. Subsequently, the petitioner and two others had given a representation on 29.01.2014 seeking to revoke the suspension. The suspension was also revoked by the General Body in their resolution dated 29.01.2014. Since the petitioner continued the activities against the interest of the 3rd respondent, the General Body, by resolution dated 12.07.2016 removed the petitioner from membership. These facts have not been controverted by the petitioner by filing any reply affidavit. A strong inference can be drawn that the petitioner is not a member of the 3rd respondent society as on date. If he had any dispute relating to such removal, then the petitioner should take up the issue in manner known to law.

22. In the bye laws of the society which had been amended by the General Body on 29.01.2014, in bye law No.38, it had been stated that if any member has any grievance against the office bearers or against the activities of any office bearer, the member can raise the grievance before the



Administrative Committee or before the Executive Committee or before the General Body. It is also stated that, if by violating such procedure, a member, either by himself or through proxy, were to approach the Government officials, it would be considered as a violation of the rules of the bye laws of the society.

23. Even though the petitioner cannot be precluded from raising issues in manner known to law, the primary grievance of the petitioner in W.P.No.33184 is with respect to notice calling for elections to be conducted.

24. When the matter came up on 09.12.2022, my learned predecessor had directed as follows:-

“The election shall go on, the results shall not be published.

2.Mr.U.Bharanidharan, learned Additional Government Pleader takes notice for the respondents 1 and 2.

3.Notice to the respondents 3 and 4 returnable by 21.12.2022. Private notice is also permitted.”



25. Thereafter, the matter was again listed on 21.12.2022. This Court had ordered as follows:

“The fourth respondent is directed to present the results of the election in a sealed cover before this Court and depending on the arguments to be advanced by the learned counsel for the petitioner, and the first, second and third respondents, this Court will take a decision to declare the elections on the date on which the arguments are advanced.

2.Counting to be done and results to be forwarded in a sealed cover before this Court on 09.01.2023.

3.An obligation is also placed on the first and second respondents to put their role in writing in the above dispute.”

26. On 09.01.2023, a sealed cover had been forwarded to Court by the learned counsel for the 4th respondent / Election Officer.

27. The grievance of the petitioner with respect to conducting of elections was that 15 days' notice was not given. However, a perusal of the election notice shows that, it was issued on 12.11.2022 for the elections to be conducted on 13.12.2022. By any mathematical calculation, more than 15 days' notice had actually been given.



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28. With respect to the list of members, it is seen from the counter affidavit of the 2nd respondent, that the 3rd respondent society had the following members in accordance with Form - VII, filed along with the Form – VI. The details are as follows:

S.No.	<i>Form VII (filed along with Form VI) filed for Financial Year</i>	<i>Total number of Members mentioned in the 3rd respondent Society</i>
1.	2013 to 2014	1014
2.	2014 to 2015	1084
3.	2015 to 2016	1212
4.	2016 to 2017	1215
5.	2017 to 2018	1315
6.	2018 to 2019	1297
7.	2019 to 2020	1276
8.	2020 to 2021	1372

29. It is an admitted case, that the file is now with the 1st respondent, Inspector General of Registration, to condone the delay. There is power vested in the 1st respondent to condone the delay. At any rate, forms have been submitted. Elections have been conducted. Primarily, the petitioner has not controverted the specific stand that he is not a member. Even if he is a member, the issue would be whether he could question the election notification, which had been properly issued.



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30.A Full Bench of this Court, by a judgment reported in **2005 (2) CTC 161 (Mad)**, **C.M.S. Evangelical Suvi David Memorial Higher Secondary School Committee, Karisal, Through Its Secretary, Sri S.David Stephen S/o Samuel, Karisal, Ambasamudram Taluk, Tirunelveli District and Others Vs. The District Registrar Cheranmahadevi, Tirunelveli District and others**, had examined the question:

“whether the power of the Registrar to enquire into the affairs of a registered society under Section 36 of the Act would include the power to enquire into the dispute relating to election to the members of the society?”.

31.The Full Bench in an extremely instructive pronouncement had held as follows with respect to the Register of Members maintained by the Society and Form – VII to be filed in case there is change in members in terms of sub-rule (2) of Rule 17. The Full Bench held as follows:

“13. In terms of sub-rule (1) of Rule 17, the registered society shall file with the Registrar within one month from the date of registration of the society, a copy of the register of members maintained by the society. In case



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any change among the members of the society or the committee in terms of sub-rule (2) of Rule 17, notice of such change shall be filed in Form No. VII within three months from the date of such change to the Registrar. The said notice of change shall be accompanied by the resolution of the meeting effecting such change.

14. Form VII contains the name of the society, date of registration, the year of registration and the details of change. Filing of the said Form is in order to ensure that such change in the committee or the members is entered in the register maintained in the office of the Registrar as maintenance of such record is compulsory.

15. For the purpose of such registration when Form No. VII is filed, the Registrar shall necessarily satisfy himself as to whether the particulars furnished in Form No. VII are true and correct.

16. Under sub-section(1) of Section 36, the Registrar may of his own motion or on the application of a majority of the members of the Committee of a registered society or on the application of not less than one third of the members of that registered society or if so moved by the District Collector hold or direct some person authorised by the



Registrar by order in writing in this behalf to hold, an inquiry into the constitution, working and financial condition of that registered society. It is argued that in view of the word “into the constitution” employed in Section 36, the power of the Registrar to inquire into the affairs of the society shall include the power to inquire into the election of members. It is further argued that in terms of sub-section (9) of Section 36 of the Act, the power of the Registrar to enquire into the affairs of the society shall also include such direction to hold fresh election as well.

17. A conspicuous reading of the above mentioned provisions show that the Act is intended to regulate the affairs of the society in accordance with the provisions contained therein and the rules made thereunder and that the registration is made compulsory on certain contingency and for its enforcement the provisions confer only the administrative power of the Registrar to ensure that the registered society to function strictly in accordance with the provisions of the Act or the Rules made thereunder, more particularly for maintenance of accounts for audit purpose; framing of bye-laws in conformity with the object of the society for which it is formed and registered; in respect of application of funds of the registered society, conduct of annual General Meetings and extraordinary general



meeting and amalgamation and division of registered societies. The Registrar has power to direct the registered society to furnish in writing such information or explanation in respect of any document which the registered society is required to file with him.

18. The power of the Registrar to enquire into the affairs of the society is only to hold a summary inquiry for his own satisfaction. The said power cannot be construed as the power of appeal. Under Section 36, the Registrar has not been empowered to adjudicate upon the conflicting claims to represent the society based upon question of fact. A plain reading of Section 36 shows that the Registrar could look only the provisions of the Act and the Rules and prima facie materials to arrive at a conclusion either to believe or not to believe Form No. VII in order to effect change in the register. The power of the Registrar to call for information and explanation under Section 34 does not contemplate any power to examine witnesses or to allow opportunity for cross examination of witnesses. The power in our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register.



However, the exercise of power must not be arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the Writ Jurisdiction.

19. In this context it could also be kept in mind the intention of the Legislature not to confer a power of supersession of the Committee on the Registrar as by insertion of Tamil Nadu Act 16 of 1994, such power is vested only in the Government and even when the Registrar is satisfied after enquiry under Section 36 that the society which has contravened any of the provisions of the Act or the Rules made thereunder or the society is insolvent or must necessarily become so or that the business of any such registered society is conducted fraudulently or not in accordance with the bye-laws or the objects specified in the memorandum filed with the Registrar, he may only cancel the registration.

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 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.”

32.The Full Bench had very clearly held that the Registrar of Societies has no power to examine the issue of the validity of an election. He cannot even give a direction to hold fresh election, which would amount to indirectly setting aside the earlier election. He can only examine the correctness of the particulars in Form – VII. It had been finally held that the parties will have to approach the Civil Court for appropriate orders.

33. In view of this pronouncement by the Full Bench, I hold that the writ petition in W.P.No.33184 of 2022 relating to the notice calling for elections is not maintainable.



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34. More particularly, the petitioner has not disputed the specific statement that he has been removed from membership and has no locus to question any of the activities of the 3rd respondent. Therefore, W.P.No.33184 of 2022 is dismissed.

35. As stated the election results have been forwarded to this Court in a sealed cover. Since the petitioner has no locus to question the elections and more particularly, since the writ petition is not maintainable, the elections are declared by this Court. The original of the results of the elections as declared by the Election Officer is annexed to this order. The results are declared in accordance with the annexure.

36. In W.P.No.34473 of 2022, the petitioner had sought a direction against the 1st and 2nd respondents namely, the Inspector General of Registration and the District Registrar, Thiruvarur, to take necessary action consequent to the enquiry report of the District Registrar dated 01.09.2015 and 21.01.2016.



37.The petitioner had earlier filed W.P.No.35530 of 2015 and complaining that a direction therein had not been complied with by the respondents, had also filed contempt petition in Cont.P.No.2440 of 2016. By an order dated 07.10.2016, a learned Single Judge of this Court, had directed as follows in the contempt petition:

“2.The learned Government Advocate appearing for the respondents submitted that an order has been passed on 01.06.2016 and from the copy of the order produced before this Court, it is seen that the order has not been communicated to the petitioner. However, the respondent is directed to communicate a fresh copy of the order by Registered post within one week

The Contempt Petition is closed. No costs.”

38.It is thus seen that the respondents had passed an order on 01.06.2016. It is for the petitioner to take necessary further steps in accordance with law.



39. A second writ petition on the same issue is not maintainable. It is again to be stated that the membership of the petitioner itself is under question and under those circumstances, the locus of the petitioner to even call upon the 1st and 2nd respondents to take necessary action itself is again questionable. The writ petitioner appears to approach the Court again and again on the same cause of action, in which orders had been passed more than six years back. The petitioner has also been subsequently removed as a member of the society.

40. The fact that the respondents had passed such order is also confirmed in the counter affidavit of the 2nd respondent in W.P.No.33184 of 2022, wherein again they had stated that they had informed the society that necessary action would be taken under Section 25(3) of the Act, relating to utilization of funds for gifts. In the order dated 22.12.2022, this Court had noted as follows:

“Specific reply is to be given with respect to the expenses relating to gifts and compliments of Rs.2,90,000/- in the year 2012 – 2013, to a sum of Rs.4,10,000/- in the year 2013 – 2014 and to a sum of Rs.2,50,000/- in the year 2014 – 2015 and also for the subsequent years, particularly by the 3rd and 4th



respondents, who is represented by the counsel.

2.The learned Additional Government Pleader takes notice for R1 and R2.

3.Records to be produced regarding action taken, consequent to an earlier writ petition in W.P.No.35530 of 2015 by order dated 04.11.2015.

4.Issue notice to the 5th respondent through Court and also privately returnable by 09.01.2023.”

41.It is seen that the 2nd respondent had actually passed an order on 01.06.2016 which was not brought to the notice of this Court on 22.12.2022. The order specifically related to the expenditure on gifts. I am informed that the 2nd respondent would take the issue further, in manner known to law after giving due opportunity to all parties concerned.

42.It is to be noted that the petitioner is not a member and therefore, the 2nd respondent may keep that fact in mind while taking a decision as to who is to be heard consequent to the order dated 01.06.2016.

43.Recording as above, the above W.P.No.34473 of 2022 stands dismissed.



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44. In the result, both the Writ Petitions are dismissed. No costs.

Consequently, the connected Writ Miscellaneous Petitions are closed.

25.01.2023

Index: Yes/No

Internet: Yes/No

Speaking order: Yes/No

smv

Note:- The original result of the election is enclosed with this order.

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai – 600 004.

2. The District Registrar,
Registrar of Societies,
Thiruvarur,
Thiruvarur District.



பேரவையுள்ள நீதிபதிகள் அவர்களின் தீர்மானம் - 2023,
தமிழக வழக்குகள் & மக்கள் தொடர்பு அமைச்சு

பக்கம் - 33

ச.நா.	தரம்	பேரவை அங்கம்	தீர்மானம்	தீர்மானம்
I	பேரவை	1) தலைவர் (பேரவை) 2) தலைவர் (பேரவை) 3) தலைவர் (பேரவை) 4) தலைவர் (பேரவை)	100%	தீர்மானம்
II	பேரவை	1) தலைவர் (பேரவை) 2) தலைவர் (பேரவை) 3) தலைவர் (பேரவை) 4) தலைவர் (பேரவை)	100%	தீர்மானம்
III	பேரவை	1) தலைவர் (பேரவை) 2) தலைவர் (பேரவை) 3) தலைவர் (பேரவை) 4) தலைவர் (பேரவை)	100%	தீர்மானம்

தமிழக உயர் நீதிமன்றம்

பக்கம் - 34

ச.நா.	தரம்	பேரவை அங்கம்	தீர்மானம்	தீர்மானம்
I	பேரவை	1) தலைவர் (பேரவை) 2) தலைவர் (பேரவை) 3) தலைவர் (பேரவை) 4) தலைவர் (பேரவை)	100%	தீர்மானம்
II	பேரவை	1) தலைவர் (பேரவை) 2) தலைவர் (பேரவை) 3) தலைவர் (பேரவை) 4) தலைவர் (பேரவை)	100%	தீர்மானம்
III	பேரவை	1) தலைவர் (பேரவை) 2) தலைவர் (பேரவை) 3) தலைவர் (பேரவை) 4) தலைவர் (பேரவை)	100%	தீர்மானம்

தமிழக உயர் நீதிமன்றம்



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C.V.KARTHIKEYAN,J.

smv

W.P.Nos.33184 & 34473 of 2022
and
W.M.P.Nos.32599 & 33920 of 2022

25.01.2023