



W.P.(MD) No.4368 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2023

CORAM:

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD) No.4368 of 2023
and
W.M.P.(MD) No.4102 of 2023**

1.T.Niranjan

2.C.Surendran

3.P.Kaliyamurthy

4.G.Jeevaraj

5.K.Karmegam

6.P.Pavithran

7.Rajalakshmi

8.Veerasekaran

9.M.Rathinadevi

... Petitioners

-VS-



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1.The Election Committee
Thanjavur Bar Association
District Court
Thanjavur

2.The Bar Council of Tamil Nadu and Pondicherry
rep.by its Secretary
N.S.C.Bose Road
Chennai-600 104

3.The Bar Association of Thanjavur
rep.by its Secretary
District Court
Thanjavur

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the respondent No. 3, in respect of Notification dated Nil, issued by it, for holding the election to the office bearers of the said Association on 03.03.2023 for the year 2023-24, quash the same and direct the respondents 1 to 3 herein to conduct the elections to the Thanjavur Bar Association, by preparing a fresh Voter list in accordance with the rules framed by the Bar Council of Tamilnadu (Constitution and Registration) Rules.



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For Petitioners : Mr.K.Subramanian, Senior Counsel
for Mr.R.Maheswaran

For Respondents : Mr.R.Suresh Kumar
Standing Counsel for R2
Mr.T.A.Ebenezer for R3

ORDER

[Order of the Court was made by The Hon'ble ACTING CHIEF JUSTICE]

The petitioners, who are all members of Thanjavur Bar Association, have filed this writ petition, under Article 226 of the Constitution of India, for issuance of a writ of certiorarified mandamus to quash the Notification dated Nil, issued by the third respondent, for holding the election to the office bearers of their Association on 03.03.2023 for the year 2023-2024 and to direct the respondents 1 to 3 to conduct election to the Thanjavur Bar Association by preparing a fresh voters list in accordance with law.

2. Mr.K.Subramanian, learned Senior Counsel, assisted by Mr.R.Maheswaran, learned counsel on record for the petitioners, submitted that when election to the office bearers of Thanjavur Bar Association has been notified, there are so many errors and lapses, which have not been taken care



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of by the third respondent – Bar Association of Thanjavur and also the second respondent – Bar Council of Tamil Nadu and Puducherry. Without finalizing the validity of the voters list every year, identifying the members who are dead, who are alive, who are all practicing and not practicing and who have quit their profession for various reasons, election for the office bearers of Bar Association cannot be held and this cannot be considered as a free and fair election.

3. Learned Senior Counsel further submitted that when the third respondent has sent the voters list to the Bar Council of Tamil Nadu and Puducherry only on 20.01.2023 containing the names of 1149 voters and the same has been verified and finally, it appears that the Bar Council of Tamil Nadu and Puducherry has finalized the list of only 772 voters names on 27.02.2023. Therefore, the election notification published by the third respondent is liable to be rescheduled with suitable directions to the Bar Council to come out with a fresh voters list containing the names of practicing lawyers and who are eligible to cast their votes as per the rules followed by the Bar Council of Tamil Nadu and Puducherry.



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4. Further, learned Senior Counsel submitted that in similar circumstances, the Punjab & Haryana High Court, accepting the similar stand taken by Ludhiana Bar Association, directed the Bar Association to fix a fresh date for holding free and fair election. Therefore, learned Senior Counsel submitted that no prejudice would be caused to anyone in the present case, if the election schedule is rescheduled and a proper voters list is prepared afresh.

5. Learned Standing Counsel appearing for the second respondent, on instructions, submitted that today only the second respondent has received the voters list sent by the third respondent on 20.01.2023 containing 1149 voters names and the list has to be properly looked into so as to find who are all eligible voters. He also submitted that if the names of dead persons are included in the list, the same have to be removed and a fresh voters list has to be prepared and it has to be sent back to the third respondent. Therefore, this exercise would take minimum four weeks time.

6. Learned counsel appearing for the third respondent, on instructions, submitted that already a voters list of containing 1149 voters



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names was sent to the Bar Council of Tamilnadu and Puducherry on 20.01.2023 and after proper scrutiny, they have finalized the list of 772 voters on 27.02.2023. Again, the third respondent, in order to hold election, sent a list containing 19 fresh voters, whose names are to be included in the voters list, to the second respondent, wherein the petitioners name are not included since some of the petitioners have been found ineligible to cast their votes for various reasons mentioned therein. The third respondent has also rejected some of the voters names, as they are not members of Thanjavur Bar Association. Since it is for the Bar Council of Tamil Nadu and Puducherry to take a final call in the matter, a direction may be given to the Bar Council of Tamil Nadu and Puducherry to finalize the fresh list and inform the same to the third respondent for holding election expeditiously.

7. In reply, learned Senior Counsel submitted that a detailed objection has also been given objecting the rejection of the names and this has to be looked into by the Bar Council of Tamil Nadu and Puducherry.

8. Considering the receipt of the voters list sent by the third respondent to the second respondent, four weeks time from today is granted with a direction to the Bar Council of Tamil Nadu and Puducherry to finalize



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the eligible voters list by removing the names of dead persons, ineligible voters, who have not paid their subscription, not passed the examination and not submitted declaration forms. After finalizing the eligible voters list, the same shall be uploaded in the website of the Bar Council of Tamil Nadu and Puducherry so that the affected persons can submit their objections. Needless to mention that only after a fresh voters list is prepared, the date for election to the office bearers of Thanjavur Bar Association shall be fixed.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[T.R., A.C.J.] [D.K.K., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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and
D.KRISHNAKUMAR, J.

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