



W.P.(MD) No.5743 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.5743 of 2020
and
W.M.P.(MD) Nos.5005 to 5008 of 2020**

P.Natarajan

... Petitioner

/vs./

1.The Registrar of Societies,
No.100, Santhome High Road,
Chennai.

2.The District Registrar of Societies (Administration),
Tuticorin.

3.M.Muthukamatchi

4.M.Manoharan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.4133/A3/2017 dated 10.01.2018 and consequent order passed by the



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1st respondent in his proceedings in No.36175/I2/2017-3 dated 27.03.2018 and quash the same and consequently direct the 2nd respondent to conduct free and fair election for the Vilathikulam Hindu Nadar Uravinmurai Sangam based on the registered members list as shown in the Form VI dated 30.05.2010 registered with the 2nd respondent.

For Petitioner : Mr.B.Prahalad Ravi

For R1 & R2 : Mr.T.Amjadkhan
Government Advocate

For R3 & R4 : Mr.R.Devaraj

ORDER

The writ petitioner has invoked the extraordinary jurisdiction of this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No. 4133/A3/2017 dated 10.01.2018 and the consequential order passed by the first respondent in his proceedings in No.36175/I2/2017-3 dated 27.03.2018, quashing the same and directing the second respondent to conduct free and fair election for the Vilathikulam Hindu Nadar Uravinmurai Sangam based on the registered members list as shown in the Form VI dated 30.05.2010 registered with the second respondent.



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2.It is his case that he is a resident of Vilathikulam and a member of Vilathikulam Hindu Nadar Uravinmurai Sangam. He would submit that he had discharged his duties in capacity of a President of the said Sangam for the year 2002-2010. It is his case that the society, which has been established in the year 1955, is a registered society and has as its members, the people belonging to the Nadar Community living in and around Vilathikulam Town. The society is governed by its bye law and the office bearers are elected as per the procedure contemplated in the said bye law.

3.The petitioner would further submit that after the last election that was conducted in the year 2010 based on the members list of the same year , Form VI and Form VII were submitted to the second respondent on 30.05.2010. In the list, 124 persons were shown as members. Form VII informing the change in management had also been submitted and accepted by the second respondent.

4.All of a sudden, one P.Karuppusamy Nadar and Pudhuraja took illegal control of the society and prevented the legally elected office bearers from exercising their rights as the office bearers. The petitioner herein had filed a suit



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O.S.No.6 of 2011 on the file of the District Munsif Court, Vilathikulam against the said Karuppusamy Nadar and Pudhuraja and impleaded the second respondent herein also as a party to the said suit. After dragging on the suit for over a year, the same was ultimately dismissed and an appeal in A.S.No.67 of 2014 was filed by the petitioner on the file of the Sub Court, Kovilpatti, which had also been dismissed. Meanwhile, a similar suit O.S.No.7 of 2014 is pending on the file of the Sub Court, Kovilpatti.

5.The petitioner would submit that he had filed W.P.(MD) No.16334 of 2017 seeking direction to the respondents 1 to 3 to take action to supersede the society by appointing a Special Officer to audit the accounts of the society for the past 7 years and thereafter conduct a free and fare election. This writ petition was disposed of by an order dated 15.11.2017 directing the respondents 1 to 3 to consider the petitioner's representation and pass appropriate orders in accordance with law within a period of six weeks.

6.Subsequently, the second respondent had passed an order dated 10.01.2018 stating that the petitioner was not a member of the society, as she had



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been removed from the membership as early as in the year 2011 itself. Thereafter, the election was conducted and relevant Forms VI and VII were submitted by the respondents 3 and 4 for the period 2010-2011 to 2016-2017 and consequently, the representation of the petitioner was rejected. The petitioner has preferred an appeal before the first respondent and the first respondent without holding an enquiry and affording an opportunity of personal hearing to the petitioner had dismissed the appeal on 27.03.2018. Therefore, the petitioner has come forward with the above writ petition challenging the order dated 10.01.2018 and the subsequent order dated 27.03.2018.

7.Heard the learned counsels appearing on either side.

8.A perusal of the impugned order dated 27.03.2018 would show that the same has been passed without affording an opportunity of personal hearing to the petitioner and on the ground that an appeal would not lie against the order passed by the second respondent dated 10.01.2018. The order dated 27.03.2018 is an appeal order, against the order passed by the second respondent dated 10.01.2018. Therefore, the impugned order has not taken into account the grounds raised by



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the petitioner and the same has been rejected by the Personal Assistant to the Quasi Judicial Authority. It is rather unfortunate that a person, who has been empowered to function as Quasi Judicial Authority, has deemed it fit to relegate the authority to a Private Secretary. The said act has to be deprecated.

9.In fine, the Writ Petition is allowed. The impugned order passed by the second respondent in Na.Ka.No.4133/A3/2017 dated 10.01.2018 and the consequential order passed by the first respondent in No.36175/I2/2017-3 dated 27.03.2018 are set aside and the matter is remitted back to the first respondent to reconsider the appeal filed by the petitioner and pass orders after affording personal hearing to the parties concerned to put forth their case. The said exercise shall be concluded within a period of 6 weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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