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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.12922 of 2023
and
W.M.P(MD)No.10943 of 2023

Kallar Kalvi Kazhagam,
represented by its Secretary,
P.Pandian, Madurai District.

... Petitioner

vs.

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome, Chennai-600 028.

2.The Deputy Inspector General of Registration,
Madurai Region, Integrated Registration Office,
Rajakambeeram, Thirumogur Road, Madurai-625 107.

3.The District Registrar,
Madurai South, Palace Road, Madurai.

4.Dr.O.Chandran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to impugned notice, dated 24.05.2023 issued by the third respondent vide proceedings En.4217/e1/2023 and to quash the same as illegal.



For Petitioner
For R1 to R3

:Mr.C.Senthil Murugan
:Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.M.Prakash
Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records relating to a notice, dated 24.05.2023 issued by the third respondent, District Registrar, Madurai South at Madurai in Proceedings in No.4217/e1/2023 and to quash the same.

2.Heard Mr.C.Senthil Murugan, learned Counsel for the petitioner and Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr.M.Prakash, learned Additional Government Pleader for the respondents 1 to 3.

3.The petitioner herein is Kallar Kalvi Kazhagam represented in the Writ Petition by its Secretary, P.Pandian.

4.The learned Counsel for the petitioner had made a mention to



move the Writ Petition on an urgent basis and permission was granted to bring it before this Court as lunch motion.

5. There is also a fourth respondent, about whom the petitioner seems to be deeply concerned and who appears to have raised allegations against the functioning of the petitioner society. But this Writ Petition is disposed of even without issuing notice to the fourth respondent, since the impugned notice which is complained of is quite narrow in its contents and to determine that particular issue, the fourth respondent's presence is not required.

6. Be that as it may, it must also be mentioned that the petitioner by impleading the very same respondents as now including the fourth respondent, had earlier filed ***W.P.(MD)No.12640 of 2023, Kallar Kavi Kazhagam represented by its Secretary, P.Pandian -vs- Inspector of General of Registration and three others*** and by order dated 25.05.2023, a learned Single Judge of this Court had observed as follows. Let me extract the order in entirety:



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“By consent, the writ petition is taken up for final hearing at the admission stage itself.

2. This writ petition has been filed for a mandamus directing the respondents 1 to 3 to consider the petitioner's explanation dated 17.04.2023 and its consequential reminder representation dated 08.05.2023 before passing any final orders in pursuance to the complaint lodged by the fourth respondent.

3. In the enquiry conducted by the 2nd respondent to the notice issued dated 28.03.2023 in Na.Ka.No.9041/Aa3/2022, the petitioner has given an explanation on 17.04.2023. The petitioner now apprehends that his explanation would not be considered when final orders are passed. It is needless to point out that whenever final orders are passed, based on the enquiry conducted, the concerned respondent is duty bound to consider the explanation while passing final orders.

4. In this background, there shall be a direction to the respondents 1 and 3 to consider the petitioner's explanation before passing final orders in the enquiry. Such final order shall be passed within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the aforesaid direction. No costs.”

7.The learned Counsel for the petitioner states that thereafter, the petitioner had also given two separate explanations. It is stated that without considering those explanations, the present impugned notice has been issued.

8.The earlier Writ Petition had been filed on an apprehension that the first, second and third respondents, would take coercive action consequent to the complaint lodged by the fourth respondent. Therefore,



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a direction was given to consider the explanation of the petitioner before taking any action. But the present notice stands on a different footing.

Section 35 of the Tamil Nadu Societies Registration Act, 1975, is as follows:

“35. Inspection of books-The books of every registered society shall, at all reasonable hours be open to inspection by the Registrar, or by any person authorised by him in this behalf.”

9. Even though the said provision is not mentioned in the impugned notice, that provision need not be mentioned, because it is an enabling provision giving authority to the Registrar or to any person, as directed by the Registrar, to inspect the books of accounts of any Society, which is registered under the Tamil Nadu Societies Registration Act, 1975. In the impugned notice, this is precisely what has been indicated by the first, second and third respondents herein. They have called upon the petitioner herein to keep ready the various records, which have been specified in the notice from the year 2001 onwards till the year 2022.



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10.The references to this particular impugned notice are (1)Letter, dated 17.04.2023 by the Deputy Inspector General of Police at Madurai, (2)Letter of the third respondent dated 03.05.2023 and (3)Telephonic message received by the Deputy Inspector General of Registration, dated 23.05.2023. There is no reference at all to any complaint given by the fourth respondent. It is a step taken by the first, second and third respondents to satisfy themselves about the functioning of the petitioner Society. The petitioner should come forward openly and in fact voluntarily to disclose all statements or records or books of accounts to the respondents. He must subject them for scrutinisation and for inspection. He cannot hide them or screen them from such inspection.

11.A duty is cast on the petitioner to produce all the records as sought by the respondents herein. The explanation given by the petitioner pursuant to the order of the learned Single Judge in the earlier Writ Petition would certainly be considered before any action is taken. But this is only a preliminary step. Before any final orders are passed, I am confident that explanations given by the petitioner would certainly be considered by the respondents. The petitioner has a duty to disclose all



the records, which are sought for.

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12.The Writ Petition for certiorari fails and the same is dismissed with a direction to the petitioner to produce all books and if any books or records are not available, then give necessary explanations for not having them or for not producing them before the respondents. But, let me again reiterate that it is only in the interest of the petitioner Society that all books are disclosed openly and voluntarily before the first, second and third respondents.

13.In this entire issue, the fourth respondent has no role whatsoever and the inspection is conducted without any reference to his complaint. It is for that reason, the Writ Petition itself is dismissed even without issuing notice to the fourth respondent.

14.The learned Counsel for the petitioner stated that the signatory to the affidavit, P.Pandian who is the present Secretary of Kallar Kalvi Kazhagam, the petitioner society, had assumed office in March 2020.



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

02.06.2023

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To

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome, Chennai-600 028.

2.The Deputy Inspector General of Registration,
Madurai Region, Integrated Registration Office,
Rajakambeeram, Thirumogur Road, Madurai-625 107.

3.The District Registrar,
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C.V.KARTHIKEYAN, J.

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Order made in
W.P.(MD)No.12922 of 2023

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