



WP(MD)No.19678 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP (MD) No.19678 of 2023

and

WMP (MD) No.16262 of 2023

D.M.Gulam Husain

... Petitioner

Vs

1.The District Registrar of Societies,
Sivagangai,
Sivagangai District.

2.The Secretary,
Dr.Zakir Hussain College Society,
Ilayankudi,
Sivagangai District.

3.V.M.Jabarullah Khan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus direct the 2nd respondent to nominate an observer for holding an election for the executive members and office bearers of the Dr.Zakir Hussain College Society in the light of Section 26(4) of the Tamil Nadu Societies Registration Act, 1975 and consequently to direct the respondents to use secret ballot for casting the votes of the members of the society as per the form VII approved by the



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1st respondent so as to ensure free and fair election process.

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For Petitioner : Mr.H.Hohammed Imran
For Respondent : Mr.GV.Vairam Santhosh,
No.1 Additional Government Pleader
For Respondent : Mr.Isaac Mohan Lal,
Nos.2 and 3 Senior Counsel for
Mr.H.Thayumanasamy

ORDER

The petitioner a member of the 2nd respondent society viz., Dr.Zakir Hussain College Society, Sivagangai District, which is a registered society bearing Registration No.8 of 1983 has filed this writ petition for nominating observers for the election to be conducted for the 2nd respondent society.

2.The 2nd respondent society is running two colleges, namely, Dr.Zahir Hussain College of Arts and Science and Dr.Zahir Hussain College of Education. According to the learned Counsel for the petitioner there are 878 members in the society as



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per the approved Form VI. However the 3rd respondent has admitted 150 members to the society and they are not approved by the 1st respondent District Registrar. With these 150 unapproved members, the 3rd respondent is attempting to conduct the election for the academic year 2023-2024. Therefore, the petitioner has submitted an application before the 1st respondent to nominate observer as per Section 26(4) of the Tamil Nadu Societies Registration Act, 1975 in order to ensure fair and proper election is conducted in the 2nd respondent Society. The learned Counsel for the petitioner submits that the 3rd respondent is facing several complaints and CBI has registered case against him that he has misappropriated the University Grants Commission Funds to the tune of Rs.1.2 crores. Therefore, a writ petition was filed in the year 2020 for the same relief for the previous election, wherein this Court directed the District Registrar to nominate an election observer as required under Section 26(4) of the Tamil Nadu Societies Registration Act, 1975. However the observer was not present in the last election and the



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election was conducted on voice vote basis without any ballot paper. The petitioner was prevented from taking part in the election and therefore, for this year election, the petitioner with an abundant caution has filed this writ petition to appoint Advocates as Observers as per Section 26(4) of the Act. The learned Counsel for the petitioner has agreed that the expenses would be born by the petitioner.

3.The learned Senior Counsel appearing for the respondent Nos.2 and 3 submits that the this petitioner alone is raising objections with a motive and except this petitioner all others are supporting the 3rd respondent. With regard to allegations levelled as against the 3rd respondent, the learned Senior Counsel seeks time to file counter. The learned Senior Counsel is not having any objection for nomination of Advocates as Observers that the 3rd respondent is conducting election in a free and fair manner.



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WEB COPY 4.This court considered the rival submissions and perused the materials placed on record.

5.The petitioner is having a grievance as against the 3rd respondent that he is not conducting the election in a fair and proper manner. As against the 3rd respondent, a writ petition in WP(MD)No.11726 of 2020 was filed and this Court after hearing both sides vide order dated 01.10.2020 directed the District Registrar to appoint Observer as per Section 26(4) of the Act. The petitioner alleges that the Observer has not performed his duty as directed by this Court during the last election. Therefore, this time the petitioner wants to nominate two Advocates of this Court as Observers for ensuring fair and proper election, which is scheduled to be held on 27.08.2023.

6.In view of the above, this writ petition is allowed with the following directions:



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(i) Mr. M. Saravanakumar and Mr. M. Thirunavukkarasu

Advocates are appointed as observers to supervise the general body meeting to be held on 27.08.2023 and the remuneration for the Observers is fixed as Rs.50,000/- [Rupees Fifty Thousand] each, which shall be paid by the petitioner.

(ii) The observers appointed by this Court shall ensure fair and proper election is conducted for the 2nd respondent society.

(iii) The respondents 1 to 3 shall extend their fullest co-operation to the Observers to ensure free and proper election is conducted. No costs. Consequently connected miscellaneous petition is closed.

17.08.2023

Note: Issue order copy on 21.08.2023

Internet: Yes / No

Index: Yes / No

NCC: Yes / No

DSK



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To

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