

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.21747 of 2023

and

WMP (MD) No.18144 of 2023

T.Jeyachandran

... Petitioner

Vs

- 1.The District Registrar of Societies,
Virudhunagar,
Virudhunagar District.
 - 2.Hindu Nadar Uravin Murai Sangam
(Reg.No.84 of 2000),
Represented by its Secretary,
Thiruchuli,
Thiruchuli Taluk,
Virudhunagar District.
 - 3.T.U.N.S, Vaidyalinga Nadar Higher Secondary School,
Represented by its Secretary,
Thiruchuli, Thiruchuli Taluk,
Virudhunagar District.
 - 4.Hindu Nadar Satriya Vidyasala Primary School,
Represented by its Secretary,
Thiruchuli, Thiruchuli Taluk,
Virudhunagar District.
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st respondent herein to conduct an election

for the 2nd respondent society and 3rd and 4th respondents school's Educational Agency under the control of an Advocate Commissioner.

For petitioner : Mr.Sricharan Rangarajan
for Mr.Mohamed Ashick.H
For Respondent : Mr.G.V.Vairam Santhosh
No.1
For Respondent :Mr.S.Meenaksh Sundaram,
Nos.2 to 4 Senior Counsel
for Mr.T.Pon Ramkumar

ORDER

The Petitioner a member of the 2nd respondent Society, viz., the Hindu Nadar Uravinmurai Sangam, Thiruchuli, Virudhunagar District has filed this writ petition for a writ of mandamus directing the District Registrar of Societies, Virudhunagar District to conduct election for the 2nd respondent Society and for the 3rd and 4th respondent Educational Institutions, under the control of an Advocate Commissioner.

2.The learned Senior Counsel appearing for the petitioner submits that the petitioner is a member of the Hindu Nadar Uravin Murai Society, which is registered under the Tamil Nadu Societies Registration Act, 1971. As per the

by-laws of the society, the members of the Executive Committee are to be elected once in a three years. The society owned and managed the 3rd and 4th respondent institutions, dairy farms and a theatre. Thereafter it became defunct. Subsequently another society in the name of Tiruchuli Uravinmurai Nattargaluku Patiyapatta S.Vaidhylinga Nadar High School Committee was formed and registered in the year 1997. Thereafter the 2nd respondent society was registered in the year 2000. Both societies claimed administration of the properties of the schools. Since then there were several issues in the administration of the society and the educational institutions run by the society. While so, in the earlier occasion, a writ petition in WP(MD)No.18775 of 2019 was filed seeking for a writ of mandamus, directing the 1st respondent herein to conduct election for the Society and the schools under the Control of an Advocate Commissioner. This Court by order dated 26.11.2016 appointed Advocate Commissioner to conduct election. Accordingly election was conducted and officer bears were elected. The tenure of the present body expires on 26.09.2023. Since there was no notification issued for

conducting election, the petitioner made request to the society and it was replied that election would be conducted in consultation with the 1st respondent. However no step are taken by the present office bearers to conduct the election. Therefore, the present writ petition is filed with the above prayer and the learned Senior Counsel prays that the writ petition be allowed.

3.Mr.T.Pon Ramkumar, takes notice for respondents 2 to 4 at the admission stage. The learned Senior Counsel appearing for respondents 2 to 4 submits that the election would be conducted in a fair and proper manner. The writ petitioner having certain apprehensions has filed this writ petition. However, they are not having any objection for appointment of Advocate Commissioner to conduct election for the society and the schools.

4.The learned Additional Government Pleader appearing for the 1st respondent submits that it is not possible for the 1st respondent to be present in all the societies at the time of election and if any allegations are raised in the

conduct of the election, it would be considered in accordance with law.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The learned Senior Counsel has relied on the earlier orders of this Court in WP(MD)No.18775 of 2019, dated 26.11.2019 and the relevant portion is extracted hereunder:

"15.We grant permission to the election officer to appoint a person to assist him in the proceedings, to finalise the list of members etc., While finalising the voters list, the election officer shall examine as to why names of the members were removed and if it is found to be incorrect those members shall reinducted. Before doing so a meeting shall be convened among all the parties, so that there is no further litigation in the matter. The remuneration to the Election Officer shall be paid by the petitioner Sangam and since it is represented that the interim property protector has been nominated and who is the member of the society he shall produce all the accounts before

the election officer, who shall scrutinise the same and from and out of the amount, collected, the remuneration payable to the election officer shall be paid and all the expenses connected and incidental thereto, shall also be paid from the funds of the Sangam. We fix remuneration of Rs. 1,0,000/- (Rupees One Lakh Only) payable to the election officer. The other expenses including travel and other facilities shall be met by the Sangam and remuneration payable to the officer nominated by the election officer Sangam shall also be paid by the Sangam. If there is any difficulty in operating the Bank Account of the Sangam, to pay the remuneration to the Election Officer, the person assisting the Election Officer and meeting other expenses, the interim property protector shall meet all expenses and later reimbursed from the funds of the Sangam.

7.The last election appears to have been conducted by an Advocate Commissioner / Election Officer appointed by this Court. The already elected body will be in power till 26.09.2023. Only after 26.09.2023, the present body has to convene general body meeting and conduct election, if there is any contest. Even before the convening of the general

body meeting for conducting election, the petitioner with an apprehension the present body may not conduct election in the proper manner, has now approached this Court and the respondents 2 to 4 are not having any objections for appointment of Advocate Commissioner by this court.

8.The Educational Agencies have been established with a noble object of imparting education for needy and for the welfare of the society. The educational institutions were established by these educational agencies. The government has also recognised the same by granting aid to these institutions. The aid provided by the government to these educational institutions is the cause for major problems in almost all the educational institutions in conduct of the election.

9.This Court while considering the earlier writ petition appointed an Advocate Commissioner for conducting election to the society at the cost of the society. However, this Court is not inclined to pass similar order, since the issue has been raised by the petitioner, he has

to bear the expenses. The prayer in this writ petition is only to appoint an Advocate Commissioner under the Societies Registration Act. Section 26(4) of the Registration of Societies Act provides for appointment of observers. However, the observers appointed by the District Registrars are silent spectators and they are not ensuring that the elections are conducted in a fair and proper manner.

10. Democracy is the basic structure of our constitution. It is the lifeline of this Country. The Will and Wish of the members can be achieved only through a democratic process. The basic requirements of any democracy are active participation, periodical elections, free, fair and without any malpractice or manipulation. Our basic structure is now questioned by some miscreants with malpractices and that needs to be weeded out at the threshold. In order to ensure free and fair elections, the Societies are also spending huge amount of the Society for these Advocate Commissioners or any Observers appointed for this purpose.

11.In view of the above, this writ petition is allowed. Mr.H.Mohamed Imran [1960 of 2009 Chamber No.48, Madurai High Court], Advocate who is having a Bar standing of 11 years is appointed as Advocate Commissioner to conduct election to the 2nd respondent society and the schools run by the society. The Remuneration for the Advocate Commissioner is fixed as Rs.1,00,000/- [Rupees One Lakh], which shall be paid by the petitioner and all other expenses shall be borne by the 2nd respondent Sangam.

12.With the above directions, this writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

07.09.2023

Internet : Yes/ No

Index : Yes/ No

NCC : Yes/ No

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