



W.P(MD)No.24061 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 02.09.2022

Pronounced on : 20.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24061 of 2019

and

W.M.P.(MD)Nos.20643 and 20644 of 2019

and

W.M.P.(MD)No.8968 of 2021

V.O.C. Matriculation School Educational Society,
Paramakudi, Ramanathapuram District,
Rep. by its Correspondent / Secretary (In-charge),
M.S.Sounderasan.

... Petitioner

Vs.

1.The District Registrar (Administration),
Office of the District Registrar,
Tiruppathur Road,
Sivagangai District.

2.Vincent Jeyakumar

3.Gurusubramanian

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the



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records issued by the 1st Respondent dated 08-02-2019 in connection with the acceptance of the Form VI and Form VII submitted by the 2nd Respondent in respect of the VOC Matriculation School Educational Society, Paramakudi, Ramanad District and quash the same.

(Prayer is amended vide order dated 28.07.2022 in WMP(MD).8967 of 2021 in WP(MD).24061 of 2019 by GRSJ)

For Petitioner : Mr.B.Saravanan,
For Mr.C.Jegannathan,
For M/s.Veera Associates.

For Respondents : Mr.K.S.Selvaganesan,
Addl. Government Pleader for R1.
Mr.T.N.Rajagopal for R2 & R3.

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Government Pleader for the first respondent and the learned counsel for the respondents 2 and 3.

2.In this writ petition, acceptance of Form VI and Form VII in respect of the petition-mentioned registered society by the first respondent is put to challenge.



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3.The writ petitioner is a society registered under the Tamil Nadu Societies Registration Act, 1975. It is running a matriculation school. Election was held on 24.04.2016. One Rajagopal, was elected as President, Guru Subramanian as Vice President and M.S.Sundaresan as Secretary. According to Thiru.Sundaresan, the general body meeting was convened on 23.11.2017 and some transactions had taken place and based on the same, Form VII was submitted on 22.02.2018 and it was also approved by the District Registrar.

4.Subsequently, a complaint was received from Guru Subramanian and others on 08.06.2018 that no such general body meeting was held on 23.11.2017 and that the signature of Lakshmi Narayanan was forged. Taking cognizance of the said complaint, the Registrar issued show cause notice dated 11.10.2018. Explanation was submitted on 27.10.2018. Thereafter, the District Registrar passed order dated 07.12.2018 cancelling Form VII that was approved on 22.02.2018 and a direction was given to conduct fresh election. This order was put to challenge in W.P.(MD)No.24706 of 2018 at the instance of M.S.Sundaresan. This



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Court granted an order of interim stay on 14.12.2018. The order dated 07.12.2018 was eventually set aside by this Court on 11.07.2022 in W.P.(MD)No.24706 of 2018. Paragraph Nos.3 and 4 of the said order read as follows:-

“3. It is well settled that the Registrar performs only a ministerial function while entertaining Form-VII and only if certain gross defects or submission of two rival forms are noticed, then alone, he can conduct a summary enquiry as envisaged by the Hon'ble Full Bench of this Court in the decision reported in 2005 (2) CTC 161.

4. In the case on hand, the first respondent had virtually assumed a quasi judicial role and proceeded to pass the impugned order. It has also been held, in many decisions, that the District Registrar, while exercising the power under Section 36 of the Tamil Nadu Societies Registration Act, 1975, cannot direct holding of elections. On the very face of it, the impugned order is lacking in jurisdiction and it is set aside.”

5. According to Guru Subramanian, a meeting was convened on 16.12.2018 and it was resolved to convene general body meeting. This is seriously contested by Thiru.M.S.Sundaresan. According to him, the so-called minutes dated 16.12.2018 is a forgery. This is sought to be



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substantiated by placing the documents relied by Thiru.Guru Subramanian himself. They have been enclosed at Page Nos.23 and 28 of the typed set of papers dated 06.09.2022. While in one minutes, there is a proposal for withdrawing W.P.(MD)No.24706 of 2018, in the other copy, this proposal is absent.

6.A notice was issued on 17.12.2018 in Tamil Sudar Newspaper proposing to elect a new set of office bearers and for general discussion.

7.According to Thiru.M.S.Sundaresan, on 09.01.2019, no general body meeting was convened. On the other hand, Thiru.Guru Subramanian would assert that on 09.01.2019 general body meeting was convened and it was decided to conduct election by appointing a Commissioner. The Commissioner issued paper publication on 12.01.2019 setting out the election schedule. The said notice reads that if there is contest, election would be held on 17.02.2019. According to Guru Subramanian, there was no contest and that is why, Form VII was submitted on 21.01.2019 and the same came to be accepted on 08.02.2019.



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8.The contesting respondents have filed counter affidavit and the learned counsel for the respondents 2 and 3 took me through its contents. He pressed for dismissal of this writ petition.

9.I carefully considered the rival contentions and went through the materials on record. The fact remains that the notice dated 17.12.2018 merely announces convening of the meeting on 09.01.2019 for electing a new set of officer bearers. There is no other agenda. There is a serious dispute whether such meeting was convened on 09.01.2019 or not. But the prime dispute appears to be the induction of new members on 09.01.2019. This obviously alters the composition of the general body itself. Whether the election of officer bearers on the strength of such a altered general body itself is the moot question. I am not in a position to go into the merits of the matter primarily because the petitioner has already filed O.S.No.51 of 2019 on the file of Sub Court, Paramakudi. Of course, in the said suit, the plaintiff has prayed for restraining the registering authority from taking the Form VII filed by the defendants on file. The fact remains that the Form VII was already taken on file on 08.02.2019.



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10.It is true that the period of an executive committee of a registered society will hold good for a period of three years. But on this ground, the suit will not become infructuous. It is stated that the written statement had already filed.

11.I do not enter into the merits of the matter for two reasons. (a) Allegations of fraud have been made and they can be gone into only in a full-fledged trial. (b) Any decision will have a bearing on the status of the persons said to have been inducted on 09.01.2019. Therefore, the plaintiff in the said suit is permitted to file an application for impleading the newly added members in a representative capacity. He is also permitted to seek the relief of declaration that induction of new members is null and void. If such interlocutory applications are filed, they shall be allowed by the Trial Court.

12.The trial Court is also directed to frame additional issues after the interlocutory applications are filed and allowed. The questions that have been thrown up for consideration are as follows:-



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“(a) Whether induction of new members in the meeting held on 09.01.2019 is void when the notice published on 17.12.2018 does not contain an agenda for the same?

(b) Whether Form VI and Form VII submitted on 20.01.2019 and approved on 08.02.2019 on the strength of the general body which included the newly added members is null and void?

(c) Whether the minutes dated 16.12.2018 relied on by Guru Subramanian is forged?

(d) The District Registrar passed an order on 07.12.2018 for conducting fresh election. Probably pursuant thereto, Guru Subramanian caused publication on 17.12.2018 for electing new set of office bearers. When the order dated 07.12.2018 itself had been set aside by this



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Court in W.P.(MD)No.24706 of 2018, whether the election process itself is valid?

(e) When the executive committee was elected on 24.04.2016 and its period would end only on 23.04.2019, whether such an election held before the expiry of the period is valid?”

13. These are the questions that have been thrown up for consideration before this Court. Since factual aspects are involved, the Writ Court is handicapped from going into the same at length. It is for this reason, I direct the learned Sub Judge, Paramakudi to dispose of O.S.No.51 of 2019 on merits and in accordance with law within a period of four months after the interlocutory applications filed by the plaintiff are allowed. It is open to the defendants in the suit to raise additional pleading within a period of four weeks from the next hearing date. The rights of the parties will abide by the outcome of the suit.



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14.This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

20.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 19.07.2023.

To:-

The District Registrar (Administration),
Office of the District Registrar,
Tiruppathur Road,
Sivagangai District.

Copy to:-

The Sub Judge,
Paramakudi.



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G.R.SWAMINATHAN, J.

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**Pre-Delivery Order in
W.P(MD)No.24061 of 2019**

**20.06.2023
(1/4)**