



W.P(MD)No.27886 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 24.11.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.27886 of 2023

and

W.M.P.(MD)Nos.23987 and 23998 of 2023

Badmasaliar Munnetra Sangam,  
A Registered Society – Regd No.175/86,  
17/22, Appavukinatra Lane,  
Markandasamykoil Street,  
Avaniyapuram, Madurai,  
Represented through its President,  
K.A.Krishnan.

... Petitioner

Vs.

- 1.The District Collector,  
Madurai.
- 2.The District Registrar,  
Madurai South,  
Madurai District.
- 2.The Commissioner of Police,  
Commissioner Office,  
Thallakulam, Madurai.
- 4.The Inspector of Police,  
Avaniyapuram Police Station,  
Madurai District.
- 5.R.Jagadeesan



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6.A.Sivakumar

... Respondents

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**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.K.anO.0725/E1/2023 passed by the 2<sup>nd</sup> respondent dated 20.11.2023 and quash the same and consequently directing the 3<sup>rd</sup> and 4<sup>th</sup> respondents to adequate police protection for conduct general body meeting in the BMS school premises to be held on 26.11.2023.

For Petitioner : Mr.K.Muraleedharan

For Respondents : Mr.M.Sidharthan,  
Addl. Government Pleader for R1 & R2.  
Mr.A.Albert James,  
Government Advocate for R3 & R4.  
Mr.M.Solaisamy for R5.  
Mr.J.Senthilkumar for R6.

### **ORDER**

Heard both sides.

2.The case on hand involves the affairs of the Badmasaliar Munnetra Sangam. It is a society registered under the provisions of the Tamil Nadu Societies Registration Act, 1986. There are factional disputes. O.S.No.114 of 2021 has already been filed before the District



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Munsif Court, Madurai. It is still pending. At this stage, a general body meeting is proposed to be convened on 26.11.2023. One of the agenda is to elect a new set of officer bearers. It is stated that the earlier set of office bearers were elected on 27.10.2020. Since the three year period is to expire, as per Section 15 of the Act, it is necessary to hold a fresh election.

3.At this stage, based on the representation given by the fifth respondent, the District Registrar, Madurai South has issued the impugned communication dated 20.11.2023 calling upon the petitioner not to hold the general body meeting on 26.11.2023. The second respondent has expressed his opinion that since the parties are locked in civil litigation in O.S.No.114 of 2021, it would be just and proper to await the outcome of the civil suit and complicate matters by convening a general body meeting and electing a new set of office bearers.

4.The said communication is put to challenge on the grounds set out in the affidavit filed in support of the writ petition. The learned counsel for the petitioner relied on the decisions of the Madras High



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Court reported in *2005 (2) CTC 161 (C.M.S.Evangelical Suvi Davit Memorial Higher Secondary School Committee Vs. The District Registrar, Cheranmahadevi* and *2009 (4) CTC 652 (Mohan Sharma Vs. The District Registrar (Administration))*.

5.The learned Additional Government Pleader for the official respondents as well as the learned Government Advocate for the police submitted that the impugned communication has been issued only to ensure that no law and order problem arises and that there is no other reason for issuing the impugned communication.

6.The learned counsel for the fifth respondent as well as the learned counsel for the sixth respondent submit that several financial irregularities have been committed and that serious allegations have been made against the office bearers of sangam. According to him, when the matter was taken up for consideration by the second respondent, it was agreed by both the parties that they would resolve the issues before the jurisdictional Civil Court. When the Civil Court is seized of the matter, it is not proper for the petitioner to hold the meeting. The learned counsel



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for the private respondents submitted that the impugned communication deserves to be sustained. They pressed for dismissal of the writ petition.

7.I carefully considered the rival contentions and went through the materials on record. The only issue that calls for consideration is whether the second respondent is statutorily competent to issue the impugned communication. As rightly pointed out by the learned counsel for the petitioner, the power under Section 36 of the Registration Act could not be invoked at the instance of a single member of a registered society. This proposition has been clearly laid down in the decision reported in **2009 (4) CTC 652 (Mohan Sharma Vs. The District Registrar (Administration))**. In this case, the second respondent had issued the impugned communication based on the representation dated 07.11.2023 given by the fifth respondent. The petitioner was not even put on notice or heard before passing the impugned communication.

8.My attention is not drawn to any specific provision whereby the District Registrar could have called upon the officer bearers of a registered society not to hold general body meeting. The Hon'ble Full



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Bench of the Madras High Court in the decision reported in **2005 (2)**

**CTC 161 (C.M.S.Evangelical Suvi Davit Memorial Higher Secondary School Committee Vs. The District Registrar, Cheranmahadevi)** had specifically held that the Registrar does not have the power to direct a society to hold a fresh election. Section 15(2) of the Act states that the tenure of an elected executive committee is only for a period of three years. Admittedly, the tenure of the body has to come an end. Therefore, it is necessary to hold a fresh election to elect a new set of office bearers. In these circumstances, if no election is conducted, the statutory mandate set out in Section 15(2) of the Act will be frustrated. The impugned communication of the District Registrar is not only bereft of statutory authority but also runs counter to the statutory scheme. It is patently illegal and it is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**24.11.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

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