



W.P.No.10920 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.10920 of 2021
and
W.M.P.No.11556 of 2021

E.Chitranand

... Petitioner

VS.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

2.The District Registrar (Societies),
Collector Office Campus,
Coimbatore 641 018.

3.Young Men's Christian Association (Regd. No.48/1973),
Represented by its General Secretary,
No.55-70, Head Post Office Road,
Coimbatore 641001.

4.The National Council of YMCAs of India,
Rep. By its National General Secretary,
Bharat Yuvak Bhavan,
Jai Singh Road,
New Delhi 110 001.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records



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pertaining to the impugned orders passed by the second respondent herein in his proceedings No.562/Aa/2021 dated 16.04.2021 and the proceedings of the third respondent herein in his proceedings number nil dated 12.04.2021 and served on the petitioner on 19.04.2021 quash the same and consequently direct the second respondent to depute an official administrator to manage the affairs of the third respondent office within a time frame as deem fit and proper by this Court.

For Petitioner : M/s.G.Bala and Daisy

For R1 and R2 : Mr.C.Sathish
Government Advocate

For R3 : M/s.S.Kingston Jerold

For R4 : Notice Returned

ORDER

The Writ Petition is filed challenging the order passed by the 2nd respondent in his Proceedings No.562/Aa/2021, dated 16.04.2021 rejecting the request of the petitioner to oversee the election to elect Office Bearers of the 3rd respondent-Society as per by-laws.

2. The request made by the petitioner was rejected by the 2nd respondent under the impugned order by relying on the Full Bench decision of this Court in W.A.No.2969 of 2011. The 2nd respondent based on the Full



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Bench judgment of this Court, came to the conclusion that election is an internal affairs of the Society and the District Registrar had no power to interfere in the said internal affairs. The parties were relegated to workout their remedy before the Civil Court. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner submitted that the election to elect the Office Bearers of the 3rd respondent-Society has not been conducted as per the by-laws and therefore, he submitted a representation before the 2nd respondent seeking his intervention to conduct the election as per the by-laws of the Society. The learned counsel further submits that 2nd respondent being a Statutory Authority empowered to register the details of the elected representatives of the Society under Form-7 is entitled to oversee conduct of election to the Society.

4. A Full Bench of this Court, in its decision in ***C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee, Karisal through its Secretary, Sri S.David Stephen, Karisal, Ambasamudram Taluk, Tirunelveli District and others Vs. The District Registrar***



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Cheranmahadevi, Tirunelveli District and others (W.A.Nos.2969/2001, 331/2002 and 217/2004, dated 24.03.2005), reported in 2005(2) CTC 161

has held that the Registrar has no power to go into the validity or otherwise election results and it is for the civil courts to decide the same. The relevant portion of the said decision is extracted as under:-

“20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of sub-section(9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence, the power of the Registrar to issue such direction under sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall filed with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only



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resort to the power under Section 37 to cancel the registration. Hence, the power under sub section (9) of Section 36 cannot be stretched to a power on the Registrar to direct the registered society to hold fresh election. A direction to hold fresh election would amount to indirectly setting aside the earlier election and such power is not conferred on the Registrar under any of the provisions of the Act. So long as the election is not declared invalid in the manner known to law, no direction for fresh election could be ordered. Validity of the election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the Civil Court for appropriate orders and thereafter shall act as per the orders of the Civil Court. Accordingly, the issue is answered. Post the Writ Appeals for disposal accordingly.”

5. In view of the law laid down by the Full Bench of this Court in the above said decision, the Deputy Registrar of Societies has no power to decide the validity or otherwise of the election conducted by the Society to elect Office Bearers. If anybody is aggrieved by the result of the election, it is for them to challenge before the Civil Court.



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6. The election to office bearers of Society is an internal affair of Society and respondents 1 and 2 are not empowered to oversee the election or adjudicate the validity of election. In case Form-VII is submitted before Registrar, he can only conduct summary enquiry to come to the conclusion as to correctness of details found in Form-VII. Based on his finding in summary enquiry, he can either file or refuse to file details found in Form-VII. However, he cannot decide validity or otherwise of election results which is the domain of Civil Court. When Registrar cannot go into the validity of election conducted in Society, the necessary implication is he cannot take part or oversee the process of election. In the impugned order, the District Registrar rightly referred to the Full Bench judgement of this Court and relegated the parties to approach the Civil Court for redressal of their grievance. I do not find any error in the order passed by the 2nd respondent. Accordingly, the Writ Petition is dismissed.

7. It is stated by the learned counsel appearing for the petitioner that already a civil suit is pending in O.S.No.1503 of 2016 on the file of the



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Principal District Munsiff, Coimbatore concerning various issues of Society.

It is always open to the petitioner to file an appropriate application before the concerned Court seeking expeditious disposal of the suit. No costs. Consequently, the connected writ miscellaneous petition is closed.

29.11.2024

Index : Yes
Speaking order: Yes
Neutral Citation: Yes
dm

To

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No.100, Santhome High Road,
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2. The District Registrar (Societies),
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S.SOUNTHAR, J.

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