



W.P.No.21898 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.21898 of 2023
and W.M.P.Nos.21219 and 21220 of 2023

M/s.South Indian Sengunthar Magajana Sangam,
rep. by its General Secretary,
R.P.Kumaragurubaran,
No.25, Harington Road,
Shenoy Nagar,
Chennai - 600 030.

...Petitioner

Vs

1.The State of Tamil Nadu
rep. by its Secretary to Government,
Registration Department,
Fort St. George,
Chennai - 600 009.

2.The Inspector General of Registration,
Registration Department,
Santhome,
Chennai - 600 028.

3.The District Registrar (Administration),
North Chennai (Registration Districts),
1st Floor,
Kuralazham,
Chennai - 600 106.



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4.N.Chidambaranathan

5.P.T.Rajan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the order passed by the 3rd respondent proceeding in letter No.740 /E1/ 2023 dated 30.03.2023, quash the same and consequently direct the 1st Respondent to appoint any other District Registrar (Administration) instead of 3rd respondent.

For Petitioner : Mr.T.M.Pappiah

For Respondents : Mr.L.S.M.Hasan Fizal,
Special Government Pleader
for R1 to R3

No appearance for R4

Mr.A.Manoj Kumar for R5

Mr.P.Rajavel for R5

ORDER

The inquiry notice issued under Section 36 of the Tamil Nadu Societies Registration Act, 1975, by the District Registrar (Administration) in proceedings dated 30.03.2023 is sought to be quashed in the present Writ proceedings.



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2.The petitioner/South Indian Sengunthar Mahajana Sangam is a registered Society under the Societies Registration Act.

3.Section 36 of the Societies Registration Act provides power of Registrar to inquire into the affairs of the registered Society.

4.Sub Section (1) contemplates that the Registrar may, on his own motion or on the application of a majority of the members of the Committee of a registered Society or on the application of not less than one - third of the members of that registered Society, or, if so moved by the District Collector, hold, or direct some person authorised by the Registrar by order in writing in this behalf to hold, an inquiry, into constitution, working and financial conditions of that registered Society.

5.The provision is unambiguous that the Registrar is empowered to conduct an inquiry even on his own motion. Therefore, an information to the District Registrar would be sufficient to commence and inquiry



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proceedings under Section 36 of the Act. It is not necessary that a complaint must be given by a person. Complaint also can be presented by the majority of the members of the Committee of a registered Society for conducting an inquiry under the Act. Thus, the power of the Registrar to commence inquiry is undisputed.

6.The present writ has been instituted challenging the inquiry notice issued under Section 36 of the Act by the District Registrar.

7.No writ against an inquiry notice is ordinarily entertainable by the High Court under Article 226 of the Constitution of India. Writ against the notice sent is entertained, if it is issued by an incompetent authority having no jurisdiction or maintainability allegations of the malafides.

8.In all other circumstances, the party who received the notice is expected to defend the case before the Competent Authority in the manner known to law.



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9. In the present case, the learned counsel for the petitioner would submit that the disputes exist regarding the administration and election affairs in the petitioner's Sangam. Regarding the election disputes of a registered Society, no Writ is maintainable under article 226 of the Constitution of India. Such election disputes are to be adjudicated before the Civil Court of law. It is brought to the notice of this Court that a Civil Suit has already been instituted is pending before the competent Civil Court. That being the factum, all the grievances ought to be redressed by approaching the Civil Court by filing necessary application by following the procedures contemplated under Code of Civil Procedure.

10. In view of the fact that the present Writ Petition is not entertainable since the Writ Petition is filed challenging the inquiry notice issued under Section 36 of the Act. The petitioner is at liberty to appear before the Inquiry Officer and defend their case by availing the opportunities to be afforded to the parties. With these liberty, this Writ Petition stands dismissed.



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The learned counsel for the petitioner brought to the notice of this

Court that the inquiry has already been completed and the petitioner also participated, if so, the respondents shall pass final orders. The final order in the enquiry proceedings if not communicated, the respondents shall communicate the same to the petitioner without causing any further delay.

No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

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S.M.SUBRAMANIAM, J.

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