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W.P.No.26553 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.26553 of 2024

T.A.S.Rajagopala

...Petitioner

Vs.

1. The Registrar of Societies,
J6, G7+5CJ, Sansad Marg,
Old Court Building,
Janpath, New Dlehi - 110 001.
2. The Institution of Valuers,
Represented by the Registrar,
Valuers Bhawan, Plot No.3, Parwana Road,
Adjacent to Bal Bharti Public School,
Pitampura, Delhi - 110 034.
3. The Institution of Valuers,
Chennai Branch, Rep. by the Chairman,
No.4/180, TNHB Commercial Complex,
Luz Church Road, Mylapore, Chennai - 600 004. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second and third respondent to publish the list of eligible members name and address in the IOV official portal who can participate in the EGM which is going to be convene and to appoint a genuine private agency to conduct the EGM through online.



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For Petitioner : Mr.Abudu Kumar, Senior Counsel
for Mr.J.Ramesh

For Respondents : Mr.R.Sidharth, for R1
: Mr.R.Ashokan, for R2 & R3

ORDER

This Writ petition has been filed seeking direction to the 2nd and 3rd respondents to publish the list of eligible members name and address in the IOV official portal who can participate in the EGM which is going to be convene and to appoint a genuine private agency to conduct the EGM through online.

2. The case of the petitioner is that he is a permanent member of the Institution of Valuers since 2004 in the Chennai branch of IOV bearing membership No.F-12672 and he has been actively participating in the meetings and other programs conducted by the Chennai branch of IOV. The Institution of valuers is a premier organization of valuation professionals in India and there are five prominent administrative posts in the Headquarters which includes Vice President, Honorary Secretary, Honorary Treasurer and



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two council members are reserved and during December of each election year the President, Vice Presidents, Honorary General Secretary, Honorary Treasurer and the members of the Council shall be elected by the Institution by postal/courier vote. While so, the petitioner came to know that one Muniyandi, member of the said institution filed W.P.No.15669 of 2024 challenging the bye-law 8, 10 and 66 of the 2nd respondent society and this Court, vide order dated 29.07.2024 directed the 2nd respondent to convene an Extraordinary General Body Meeting (in short 'EGM') for the purpose of amending the bye-law by considering the representation dated 04.06.2024 as notice for EGM. As per the existing bye-law, there is no provision for conducting EGM through web hearing and the petitioner being a senior member of IOV, it is very difficult for him both physically and financially travel to Delhi to cast his vote at EGM. Further, as the details of members who are going to participate in EGM is not published, the petitioner made a representation dated 12.08.2024 seeking to publish the eligible list of members to participate in the EGM, which evoked no response. Hence, this Writ petition.

3. Learned counsel for the petitioner submitted that, the major



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grievance of the petitioner is that, the bye-law 10(g)iv of the Institution of valuers mandates the members to cast their vote by including their identity slip, which is not sustainable, as the same is contrary to the Representation of People Act and no voters can be identified either by the candidate, succeeding party or by the election officer and it would expose how or to whom the voter casted their vote. However, he submitted that, it would suffice, if this Court issues necessary direction for appointment of a specific agency to conduct the EGM through Online platform, as the same will reduce the struggle faced by the senior members in casting their votes. Accordingly, he prayed for appropriate orders.

4. Per contra, learned counsel appearing on behalf of the respective respondents submitted that, first of all, the present Writ petition is not at all maintainable against the respondent institution, which is a private Society and it is a mere dispute in between the individual and the institution which has to be necessarily ventilated before the competent civil forum and not by way of filing the present writ petition. Further, mere enclosing of identity slip will not cause any prejudice to the petitioner or the other voters and the same is mandated in order to avoid illegal voting. Learned counsel further



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submitted that, there is no need for the members to travel to Delhi to attend the EGM to cast their vote, if any and voting can be done through proxy as per Bye-law 49 and it is not possible to conduct the same through online, as the Bye-law does not permit for the same. Accordingly, he prayed for dismissal of this writ petition.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. The major grievance of the petitioner and other members of the institution is that, they were forced to send the ballot papers along with their identity slip, as per Bye-law 10(g)iv of the Institution of Valuers, which is impermissible as per Representation of People Act.

7. For better appreciation, the relevant portion of the bye-law is extracted hereunder:

“10. Election of Council members and other office bearers of the Council :- In December of each election year the President, Vice Presidents, Honorary General Secretary, Honorary Treasurer and the members of the Council shall be elected by the Institution by postal/courier vote in the following



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manner.

.....

(g) Thereafter, the Board of Scrutineers shall upload the list of validly nominated candidates in the official website of Institution of Valuers. If any of the valid candidates willing to withdraw his nomination, he has to do so within seven days of upload of the valid list.

The Board of Scrutineers shall then prepare voting papers, showing the names of Life Corporate Members willing to serve on the Committee if elected, and post them to the Corporate Members at their recorded addresses. Voting papers shall be returnable by post/courier only to the Board of Scrutineers within a period which shall not be less than twenty one days of the date of posting them.

The voting papers and stationeries shall include -

- i Instructions to voters”
- ii Bio-data of the candidates
- iii Ballot Paper
- iv **Identity Slip for the voter**
- v One self addressed envelope containing the Ballot Paper and the Identity Slip of the voter.

8. In view of the fact that postal ballots are permissible, but it is to be stated that the identity of the voter should not be revealed, though the documents sent for the purpose of casting postal ballot would include the voting papers and other documents as provided in the bye-law aforesaid, in view to render justice, this Court permits the petitioner to cast his vote



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through postal ballot without enclosing his identity slip, which would reveal his identity and on receipt of such postal ballots, the respondents shall not reject any of the ballot solely on the ground of non-disclosure of identity by attaching the identity slip. For future elections, the election officer shall create a QR Code in the ballot paper and send the same to the members of the institution, which would enable the members to cast their vote through online or through postal/courier, without revealing their identity.

9. With the above directions, this Writ petition stands disposed of. No costs.

14.10.2024

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

Note to office: Issue order copy on 17.10.2024.

To

1. The Registrar of Societies,
J6, G7+5CJ, Sansad Marg,
Old Court Building,

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Janpath, New Dlehi - 110 001.

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M.DHANDAPANI, J.

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2. The Institution of Valuers,
Represented by the Registrar,
Valuers Bhawan, Plot No.3, Parwana Road,
Adjacent to Bal Bharti Public School,
Pitampura, Delhi - 110 034.
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