



W.P.No.36259 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.36259 of 2024 and
WMP Nos.39139, 39140 and 39143 of 2024

Dr.Santhosh Hugar Anand Chintamani Society,
Heramb Apartment, Flat No.203, Vishrambagh,
Sangli, Maharashtra 516 415.

... Petitioner

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
R.A.Puram, Chennai 600 029.
2. The Registrar of Societies-Central Chennai,
No.258, Bharathi Salai,
Express Estate, Royapettah,
Chennai-14.
3. M/s Indian Association of Conservative
Dentistry and Endodontics (IACDE),
Rep. by its Secretary, Old No.24,
New No.53, Karthik Apartments,
Eldams Road, Chennai 600 018.
4. The President,
M/s Indian Association of Conservative
Dentistry and Endodontics (IACDE),
Old No.24, New No.53, Karthik Apartments,
Eldams Road, Chennai 600 018.



W.P.No.36259 of 2024

5. The Scrutinee Committee of Nominations
for Elections 2024-2025

M/s Indian Association of Conservative
Dentistry and Endodontics (IACDE),
3 to 5 have their address at Old No.24,
New No.53, Karthik Apartments,
Eldams Road, Chennai 600 018.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Mandamus, directing the first and second respondents to ensure free and fair elections to the third respondent Associator based on the petitioner's representation dated 21.11.2024 by monitoring the entire election process in such manner as to enable the petitioner and any other qualified members are enabled to contest the respective posts for the Election 2024-2025.

For Petitioner : Mr.A.V.Sriram, Senior counsel
for Mr.T.K.S.Gandhi

For Respondents : Mr. P.Harish, Government Advocate

ORDER

The writ petition is filed seeking direction to the first and second respondent to ensure free and fair election of the third respondent Association by considering the petitioner's representation dated 21.11.2024.



W.P.No.36259 of 2024

WEB COPY

2. It is the case of the petitioner that he is a life time member of the third respondent Association and the said Association is registered with the second respondent herein. It is the main grievance of the petitioner that the election of the third respondent Association is not conducted in accordance with the bye-laws and the candidature of the petitioner for the post of President was wrongly rejected by the Scrutinee Committee of the Association. Therefore, in order to ensure smooth and fair conduct of election, the petitioner submitted a representation before the first and second respondent and the same has not been considered. Hence the petitioner approached this court by filing the instant writ petition.

3. 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 Cheranmahadevi, Tirunelveli District and others (W.A.Nos.2969/2001, 331/2002 and 217/2004, dated***



W.P.No.36259 of 2024

WEB COPY

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 file 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 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***



WEB COPY



W.P.No.36259 of 2024

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.

4. In view of the law laid down by the Full Bench of this Court in the above said decision, the Registrar has no power to go into the validity of elections. In such circumstances, the request made by the petitioner for direction to the respondents 1 and 2 to monitor the election process in the Association cannot be considered. The conduct of election for electing the office bearers of the Association is an internal affair and the same has to be done in terms of the bye-laws. If any



W.P.No.36259 of 2024

person is aggrieved by the conduct and validity of the election, it is for him to challenge the same by approaching the civil court and the official respondents have no power to consider the request for monitoring the election.

5. For the forgoing discussion, this court is not inclined to entertain the writ petition and hence, the writ petition is dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

29.11.2024

Index:Yes/No
Internet:Yes/No
mst

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
R.A.Puram, Chennai 600 029.
2. The Registrar of Societies-Central Chennai,
No.258, Bharathi Salai,
Express Estate, Royapettah,
Chennai-14.



WEB COPY



W.P.No.36259 of 2024

S.SOUNTHAR, J.

mst

W.P.No.36259 of 2024

29.11.2024