



W.P.No.39226 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.39226 of 2024 and
W.M.P.No.42491 of 2024

T.Kumarasamy

... Petitioner

vs.

The District Registrar
District Registrar Office
1/529, Neruperichal
Pooluvapatti-641 602
Tiruppur District

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to act on the representation of the petitioner dated 26.11.2024 and also grant a personal hearing to the petitioner before proceedings with recording of Form VII, notifying the change in office bearers of Koduvai Sarvodaya Sangh for 2023-2026

For Petitioner

: Mr.Haroon AL Rasheed
for M/s.Agam Legal

For Respondent

: Mr.P.Harish
Government Advocate



W.P.No.39226 of 2024

ORDER

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By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. The writ petition is filed seeking a direction to respondent to consider his representation dated 26.11.2024 before proceeding with the recording of Form-7 submitted before the respondent with regard to the change of office bearers of Koduvai Sarvodaya Sangh for the year 2023 -2026

3. It is the case of the petitioner that he was elected as a Secretary of above mentioned Koduvai Sarvodaya Sangh in the general body meeting held on 04.05.2023. The petitioner was elected as Secretary for a period from 04.05.2023 to 04.05.2026. Subsequently, a general body meeting was convened by the petitioner on 16.10.2024. In the said general body meeting, contrary to the rules and regulations of the society, some resolution was passed as if the petitioner resigned from the post of Secretary. Apprehending Form-7 will be filed before the respondent pursuant to the resolution dated 16.10.2024, the petitioner has come before this Court. It is



W.P.No.39226 of 2024

also stated that petitioner already submitted a representation on 26.11.2024 before the respondent raising his objection for considering Form-VII if any filed before the respondent.

4. The Full Bench of this Court in the case of ***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 24.03.2005), reported in 2005(2) CTC 161*** already held that at the time of considering Form-VII application, the registration authority shall conduct summary enquiry and register the same only if he is satisfied about the genuineness of the details contained in Form-VII. 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 fresh election.** A direction to hold fresh election*



W.P.No.39226 of 2024

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. Therefore, the respondent is directed to act in accordance with law laid down by the Full Bench of this Court by conducting summary enquiry and pass final orders in accordance with law.



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W.P.No.39226 of 2024

6. With the above observations, the writ petition stands disposed. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2024

Index: Yes/No
Internet: Yes/No
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To
The District Registrar
District Registrar Office
1/529, Neruperichal
Pooluvapatti-641 602
Tiruppur District



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W.P.No.39226 of 2024

S.SOUNTHAR, J.

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