



W.P.(MD) No.22053 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.22053 2019

and

W.M.P.(MD)No.18823 to 18825 of 2019

M.S.Mohamed Nymudeen

...Petitioner

-VS-

1.The Inspector General of Registration,
Santhome, Chennai-28.

2.The Registrar (Societies),
District Registrar Office,
Tiruchirappalli.

3.A.S.Ansar (died)

4.V.S.A.Sheik Mohamed Suhail

...Respondents

[R4 is substituted vide order dated 09.09.2024]

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No.8598 / Aa3/2019 dated 31/07/2019 and quash the same and direct the respondents 1 and 2 to pass appropriate orders after conducting enquiry giving opportunity to all the parties.

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For Petitioner	: Mr.V.Mariya Roseline
For R1 & R2	: Mr.M.Siddharthan Additional Government Pleader
For R3	: Mr.P.Arun Jeyatram

ORDER

Challenge has been made to the order of the second respondent in Na.Ka.No.8598/Aa3/2019 dated 31/07/2019, wherein the first respondent had recommended the second respondent to accept the Form-VII and accounts of the petitioner's Society.

2.The petitioner is a member of a Society namely Majlis-Ul-Ulama Society, registered under the Societies Registration Act. There are two groups in the Society, one headed by the third respondent and the other headed by one A.Niaz Ahamed and B.A.Bahaudeen. The election to the said Society was held on 27.12.2012. Thereafter, one Niaz Ahamed was temporarily appointed as General Secretary in view of the removal of the then secretary, namely A.S.Ansar, for his activities against the Society. The said Ansar filed a civil suit in O.S.No.314 of 2014 challenging his removal and the same is pending. Similarly, the petitioner filed a suit for



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conducting election in the Society by appointing an Advocate Commissioner. During the pendency of the suit, two rival groups conducted election for the same Society in the year 2018. The said election proceedings were also challenged by way of filing suit. The said suits are pending.

3.In these circumstances, the petitioner had submitted a representation before the second respondent to cause an enquiry into the affairs of the society stating that the accounts have not been properly maintained. Based on the said representation, the first respondent passed the order impugned in this writ petition without providing an opportunity of hearing to the petitioner. Challenging the same, the petitioner has filed this writ petition.

4.The second respondent has filed counter affidavit stating that the petitioner had presented a petition to conduct enquiry into the affairs of the Society and for appointment of special officer to take over the administration of the Society. As per Section 36 of the Registration of Societies Act 1975, the objection and any request made by 1/3rd members of the Society out of total strength, shall be taken into consideration and



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the enquiry shall be made. In the case on hand, the petitioner as a single person has requested for enquiry and appointment of special officer.

Hence, the request of the petitioner was not considered.

5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. The impugned order has been passed recommending to condone the delay in filing Form-VII and accounts of the Society. It is a mere recommendation by the first respondent to the District Registrar. The materials as to whether that recommendation has been accepted or not by the District Registrar has not been placed before this Court. In such view of the matter, mere recommendation alone cannot be challenged by way of writ petition by the single member of the Society.

7. Further, even to cause any enquiry over the affairs of the Society and to appoint a Special Officer, the proper mechanism to be followed by the petitioner is stipulated under Section 36 of the Societies Registration Act, which makes it very clear that the Registrar may, of his own motion or on the application of a majority of the members of the committee of a



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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 authorized by the by the Registrar by order in writing in this behalf to hold an inquiry, into the constitution, working and financial condition of that registered society.

8. Therefore, to cause an enquiry the application has to be made by not less than one-third of the members of registered Society. The petitioner as a single person had given the petition. Therefore, on that ground also, the petitioner as a matter of right cannot seek indulgence of this Court.

9. It is the contention of the learned Additional Government Pleader that the Inspector General of Registration himself had conducted enquiry.

10. If the first respondent /Inspector General of Registration had conducted *suo motu* enquiry, the outcome of the same has to be seen only by the authorities concerned. The Court cannot be expected to dictate terms to the authorities as per the desires of the petitioner. Since the



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impugned order itself is not the final order and it is only a recommendation to the authorities, challenge to the same is not maintainable.

11.In view of the above deliberations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

09.09.2024

Index : Yes / No
Internet : Yes / No
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To

- 1.The Inspector General of Registration,
Santhome, Chennai-28.
- 2.The Registrar (Societies),
District Registrar Office,
Tiruchirappalli.



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N.SATHISH KUMAR, J.

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