



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

**WP(MD)No.24188 of 2022
and
WMP(MD)No.18302 of 2022**

Vivekananda Educational Society,
Rep.by its Secretary,
C.Rajan, Agasteeswaram

... Petitioner

Vs.

1.The District Registrar,
Nagercoil, Kanyakumari District.

2.R.Arun Kumar

3.N.T.Perumal

4.R.Ezhil

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings in No.3641/A2/2022 dated 30.09.2022 and quash the same as illegal.

For Petitioner

: Mr.Ajmalkhan, Senior Counsel

Mr.C.Venkatesh Kumar



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For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader for R1

Mr.V.Raghavachari, Senior Counsel
for Mr.S.Ramesh for R2 & R3

Mr.S.Prakash for R4&R5

ORDER

The petitioner is a body registered under the provisions of the Tamil Nadu Societies Registration Act, 1975. The private respondents herein are members of the petitioner society. The fourth respondent herein filed WP(MD)No.12378 of 2021 questioning the action of the executive committee of the society in suspending the membership. The writ petition was disposed of on 23.07.2021 in the following terms :

“5.In the considered view of this Court, neither the first respondent nor this Court exercising its jurisdiction under Article 226 of the Constitution of India can go into an election dispute. The appropriate forum to decide such a dispute will only be a competent Civil Court. Therefore, if at all, the petitioners have any grievance with regard to the conduct of the election by the second respondent / Society, they have to agitate their grievance only before the competent Civil Court.

6.At the best, this Court can only direct the first respondent to consider the representations made by the petitioners within the scope of Section 34 of the Societies



Registration Act and beyond that no further directions can be issued by this Court.

7. In view of the above, all the Writ Petitions are disposed of with a direction to the District Registrar (Tamil Nadu Societies Registration Act), Nagercoil, to consider the representations made by the petitioners and deal with the same on its own merits and in accordance with law by affording opportunity to all the parties concerned and take a decision within a period of four (4) weeks from the date of receipt of a copy of this order.”

Pursuant to the aforesaid direction, the impugned order came to be passed on 30.09.2022. The focus in this writ petition is more on the final paragraph which states that suspension of the membership of the private respondents herein is illegal. A declaration was given that they continue to be the members of the petitioner society.

2. The learned Senior Counsel appearing for the petitioner is right in his contention that the impugned order entirely lacks jurisdiction. It is true that it was passed pursuant to the direction of this Court in WP(MD)No.12378 of 2021. Mere issuance of direction cannot confer jurisdiction on an authority if he or she is not otherwise possessed of the same. In any event, para 7 of the order dated 23.07.2021 only states that the first respondent should take a



decision in accordance with law. There is no provision in the Tamil Nadu

Societies Registration Act, 1975 conferring power on the District Registrar to render a finding as to whether suspension or expulsion of a member of a registered society is legal or not. Such declaration can be given only by the jurisdictional court. The first respondent had clearly exceeded the jurisdiction conferred on him by the statute. The final paragraph of the impugned communication is set aside.

3.This writ petition is allowed accordingly. No costs. Connected miscellaneous petition is closed.

19.07.2024

skm

To

1.The District Registrar,
Nagercoil, Kanyakumari District.



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G.R.SWAMINATHAN, J.

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