



W.P(MD)No.22748 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22748 of 2023

and

W.M.P.(MD)Nos.19004, 19005 and 19007 of 2023

D.Gopalakrishnan

... Petitioner

Vs.

1.The District Registrar of Societies,
Madurai South, Palace Road,
Madurai.

2.Thenmandala Telugu Chettiargal Sangam (47/2005),
A Registered Society,
Represented by its Secretary,
No.1-1-A.Saravanapoigai Veethi,
Thirupparankundram,
Madurai 625 005.

3.K.K.Arasu Thiruvallavan

4.S.Subramanian,

5. PLA.Jeganath Mishra,

6.R.Mohanraj

7.R.Thillai Natarajan,

8.V.Govindan,



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9.Govindamani,

10. Kalidas,

11.K. Thangaraj,
S/o.Karuppan,
President,
Virudhunagar Hindu Telungupatti
Chetty Uravinmurai,
66, Nakkeerar Street,
Virudhunagar District 626 001.

12. R. Navaneethan,,
S/o.S.P.Ramar,
Secretary,
Virudhunagar Hindu Telungupatti
Chetty Uravinmurai,
66, Nakkeerar Street,
Virudhunagar District 626 001.

13.K.Moorthy

14.R.Perumal

15.S.Boominathan

16.S.K.Baskaran

17.M.Selvaraj

18.R.Murali
*(R11 to R18 are impleaded vide order dated
22.02.2024 in W.M.P.(MD)No.19879 of 2023
in W.P.(MD)No.22748 of 2023 by GRSJ)*

19.P.Manoharan ... Respondents
*(R19 is impleaded vide order dated
22.02.2024 in W.M.P.(MD)No.19887 of 2023
in W.P.(MD)No.22748 of 2023 by GRSJ)*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned election notification issued by the respondents 3 to 7 in Tamil Murasu dated 26.08.2023 pertaining to the election for the 2nd respondent Society as illegal, null and void and consequently appoint a retired Judge of this High Court as election officer to conduct a fresh election in a fair manner to the 2nd respondent society.

For Petitioner : Mr.M.Ponniah

For Respondents : Mr.D.S.Neduncheziyan,
Government Advocate for R1.
Mr.K.Chengizkhan for R2.
Mr.A.Saravanakumar for R3.
Mr.S.Sukumar for R4.
Mr.V.S.Karthi for R5 to R7.
Mr.G.Prabhu Rajadurai
For Mr.R.Rajamohan for R8 to R10.
Mr.B.Rajesh for R11 to R18.
Mr.G.Ramanathan for R19.

ORDER

Heard both sides.

2.The case on hand pertains to the affairs of Thenmandala Telugu Chettiargal Sangam. It is a society registered under the provisions of Tamil Nadu Societies Registration Act, 1975 (S.No.47/2005). The petitioner herein challenges the election notification issued on 26.08.2023.



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3.It is not in dispute that there was no voting. The stand of the contesting respondents is that the members of executive committee were unanimously elected and that there was no need for any voting. It is admitted that no general body meeting was conducted. The Form VII submitted by the elected committee was not taken on file by the first respondent.

4.The respondents 3 and 4 herein filed WP(MD)No.27956 of 2022 for directing the authorities to elect the new management for the society. The writ petition was disposed of on 15.06.2023 following the filing of joint compromise memo. The fifth respondent was appointed as the election officer. I called upon the learned counsel for the fifth respondent to substantiate that all the members of the society were duly intimated about the holding of the election. Even though some materials have been placed to indicate that the election notification was sent through post, the fifth respondent has been unable to satisfy me that all the members of the society were duly informed / served.

Rule 25 of the Tamil Nadu Societies Registration Rules, 1978 reads as follows:-

“25. Notice of annual general meeting to members.—

(1) Notice of general meeting of the society under sub—section (2) of Section 26 shall be given to the members at least twenty-one days before the day appointed for such meeting.

(2) The notice shall be sent to the members by one or more of the following modes,namely:—



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- (a) *by local delivery; or*
(b) *by post; or*
(c) *by circulation among the members; or*
(d) *by publication through Press.*
(3) *The notice shall also be affixed to the notice board of the society.”*

Even though notices can be sent through any one of the four prescribed modes, if objection is raised by any member that he was not served with the notice, the burden will be on the returning officer to convince the Court that service was duly effected. In this case, the fifth respondent could not satisfy me that there has been such serving of notice. The Act contemplates convening of general body meeting. In fact, election should be held only in a general body meeting. In this case, admittedly general body meeting was not at all convened. Therefore, the first respondent cannot accept the Form VII submitted by the so called newly elected office bearers. In the very nature of things, a fresh election will have to be conducted.

5.The ninth respondent herein, namely, Thiru.Govindamani was unanimously elected as the Secretary. The learned counsel for the ninth respondent also produced signatures from a large number of persons. I originally felt that the ninth respondent can be entrusted with the task of



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convening the general body meeting and also conducting the election for electing the new set of office bearers. Subsequently, I had second thoughts. This was because the ninth respondent will be prevented from contesting. That would be unfair to the ninth respondent. I, therefore, appoint Thiru.I.Irulappan, Advocate (Enrollment No.1100/2006, Cell – 94437 22324) as Advocate Commissioner to conduct election.

6.Next comes the question of electoral college. It is not in dispute that the society represents 167 villages. Each village will select two members. Thus, the electoral college will comprise a minimum of 334 members. It is stated that apart from this, there can be nomination of eminent persons. For the forthcoming general body, there need not be any such nomination of eminent members. The Advocate Commissioner will adopt the standard procedures and finalize the members list. He can very well consult the ninth respondent and other elders of the community in the process of finalising the voters list. Shri.Rajesh and Shir.Ponniah who are appearing in this case shall give the e-mails IDs to the Advocate Commissioner. The voters list will be sent to the members through email. Objection can be called for and the entire electoral list will be finalized within a period of 21 days from the date of receipt of a copy of this order. Thereafter, the Advocate Commissioner will take all steps to



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convene the general body meeting and also ensure that election is held to elect the new set of office bearers. The Advocate Commissioner will scrupulously adhere to the statutory procedures set out in the Tamil Nadu Societies Registration Act, 1975 and the Rules framed thereunder. The process of convening of general body meeting as well as holding election will be completed within a period of six weeks after the membership list is finalized. The District Registrar shall depute an observer when the election is held. The ninth respondent can administer the society in the meanwhile. The Advocate Commissioner shall be paid initial remuneration of Rs.30,000/- from out of the society's funds. He is also entitled to defray the incidental expenses then and there. He can coordinate with the ninth respondent in this regard.

7.This writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Skm



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WEB COPY

To:-

The District Registrar of Societies,
Madurai South, Palace Road,
Madurai.



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G.R.SWAMINATHAN, J.

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