



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.11.2024

PRONOUNCED ON : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)Nos.28359 of 2023 & 25332 of 2024
and

W.M.P(MD)Nos.24413 of 2023, 3010, 3533 & 21498 of 2024

1.W.P(MD)No.28359 of 2023:

Baliya Muslim Sangam,
Represented by its Secretary Mohammed Salih,
S/o.Jaffer Ali.

... Petitioner

Vs

1.The Inspector General of Registration,
Office at No.100, Santhome High Road,
Chennai – 600 028.

2.The District Registrar (Societies),
Office at Near New Collector Office,
Vallam High Road,
Thanjavur – 613 010.

3.A.Abdul Ruaoof

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorari, to call for the records of the impugned order on the file of the first respondent vide Su.Mu.Aa.No.20351/13/2023, dated 26.09.2023 and quash the same.



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

2.W.P(MD)No.25332 of 2024:

Baliya Muslim Sangam,
Represented by its Secretary Mohammed Salih,
S/o.Jaffer Ali.

... Petitioner

Vs

1.The Inspector General of Registration,
Office at No.100, Santhome High Road,
Chennai – 600 028.

2.The District Registrar (Societies),
Office at Near New Collector Office,
Vallam High Road,
Thanjavur – 613 010.

3.A.Abdul Ruafof

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorari, to call for the records of the impugned order on the file of the second respondent vide Na.Ka.No. 2165/AA3/2022, dated 08.11.2023 and quash the same.

In both W.Ps:

For Petitioner : Mr.Raja.Karthikeyan

For RR 1 & 2 : Mr.P.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.M.Sarangan
Additional Government Pleader

For R - 3 : Mr.K.P.S.Palanivel Rajan
Senior Counsel
for Mr.B.Jameelarasu



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

COMMON ORDER

WEB COPY

W.P(MD)No.28359 of 2023 has been filed challenging the order passed by the first respondent dated 26.09.2023 thereby remanded the order passed by the second respondent, dated 24.04.2023 to pass fresh orders after conducting enquiry with regard to the convening of general body meeting and whether the guidelines were followed under Section 28 of the Tamil Nadu Societies Registration Act, 1975, after hearing both sides.

2.W.P(MD)No.25332 of 2024 has been filed challenging the order passed by the second respondent, dated 08.11.2023 thereby concluded that the Form-VI and Form-VII submitted by the third respondent found to be genuine one and the Association is functioning well under the President N.K.N.Mohan Jabar Sathiq and accepted the belated annual report of the year 2017-2018 to 2021-2022.

3.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

4.The Baliya Muslim Sangam (in short hereinafter referred to as 'the Sangam') has two fractions claiming right over the administration of the Society by filing annual report and Form-VI and VII of the Sangam. On receipt of the same, the second respondent initially directed both parties to approach the civil Court for appropriate relief. Aggrieved by the same, the third respondent filed an appeal before the first respondent. The first respondent heard the appeal and remanded the matter back to the second respondent to pass fresh orders, after conducting enquiry with regard to the convening of general body meeting and whether the guidelines were followed under Section 28 of the Tamil Nadu Societies Registration Act, 1975, after hearing both sides. This order is under challenge in W.P(MD)No.28359 of 2023. As directed by the first respondent, the second conducted enquiry and passed orders dated 08.11.2023, which is under challenge in W.P(MD)No.25332 of 2024.

5.The office bearers of the Sangam such as the President, Secretary and other office bearers are elected by the members of the general body meeting based on the by-laws. The President of the Sangam will be appointed as a Correspondent of the Schools managed by the Sangam. The erstwhile President died



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

on 29.12.2022. Thereafter, the third respondent submitted a representation before the second respondent alleging malfunctioning and misusing of funds of the Sangam and Schools. Therefore, the District Registrar/the second respondent directed the petitioner as well as the third respondent to file an annual report from 2017-18 to 2021-22 for 5 years with Form-VI. Accordingly, both the petitioner as well as third respondent filed annual reports and Form-VI on 14.07.2022 and 08.02.2023. On receipt of the same, the second respondent conducted an inspection and directed to conduct a general body meeting. There are totally 35 members, in which 9 members died and 24 members are alive. However, both the petitioner as well as third respondent filed report stating that they had support of 13 members each. Therefore, the second respondent stated that the disputed questions between the petitioner and the third respondent could not be gone into and directed them to approach the civil Court for appropriate relief. Thereafter, the petitioner filed a suit along with I.A.No.181 of 2023 seeking a grant of leave. The said interlocutory application is still pending. While being so, the third respondent filed an appeal before the first respondent. Considering the submissions, the first respondent remanded the matter back to the second respondent to pass fresh orders.



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

6. On perusal of the records would reveal that the office bearers including the third respondent were elected by 14 members out of 24 members of the Sangam. Therefore, the second respondent approved the Form-VII submitted by the third respondent. However, the petitioner submitted that he has the support of 13 members and as such, the second respondent was directed to convene an extraordinary general body meeting. Accordingly, it was convened on 17.03.2023 and 14 members of the Sangam had approved the third respondent and its team elected them as office bearers and submitted Form-VII before the second respondent for approval. Since there was a rival claim, the second respondent directed the petitioner and the third respondent to approach the civil Court and refused to accept Form-VII produced by both of them. The second respondent can very well enquire as to the acceptance of Form-VII by virtue of the power vested under Section 36 of the Tamil Nadu Societies Registration Act, 1975 and Circular No.3 of 2022, dated 27.05.2022 issued by the first respondent. Therefore, the order passed by the second respondent was appealed by the third respondent before the first respondent under Section 45 of the Tamil Nadu Societies Registration Act, 1975. On the appeal, the first respondent rightly remanded the matter back to the second respondent as to whether the guidelines issued



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

under Section 28 of the Tamil Nadu Societies Registration Act, 1975 were followed or not and to conduct a fresh enquiry. In pursuant to the direction issued by the first respondent, the second respondent after giving an opportunity of hearing, held that Form-VII produced by the third respondent was accepted and the same has been acted upon by order dated 08.11.2023.

7.Further, the acceptance or rejection of Form-VII and the action of the second respondent in calling for additional information or explanation under Section 34 of the Tamil Nadu Societies Registration Act, 1975 is a mere ministerial act, not amenable to the writ jurisdiction of this Court. Therefore, the Writ Petitions are not maintainable since out of which appeal arise under Section 45 of the Tamil Nadu Societies Registration Act, 1975. The learned counsel appearing for the petitioner relied upon the Judgment of the Full Bench of this Court in the case of ***C.M.S. Evangelical Suvi David Memorial Higher Secondary School Committee Vs. The District Registrar, Cheranmahadevi*** reported in ***2005 (2) LW 550***, in which the issue of whether the power of the Registrar to enquire into the affairs of a registered Society under Section 36 of the Tamil Nadu Societies Registration Act, 1975 would include the power to enquire into the dispute



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

relating to election to the members of the Society. It is held that the Registrar cannot pass an order for a fresh election and if it does not satisfy as to the particulars in Form-VII, it can direct the parties to approach the civil Court questioning the validity of the election.

8. Admittedly, in the case on hand, the election is not in dispute and the second respondent was never directed to conduct re-election. Therefore, the above Judgment is not helpful to the case on hand.

9. The learned counsel appearing for the petitioner relied upon the Judgment of the Hon'ble Division Bench of this Court in ***R.Muralidaran and others Vs. The District Registrar*** reported in ***2008 (1) MLJ 1308***, in which the Hon'ble Division Bench of this Court held that in the issue of the validity of elections of each group of persons dealt with and held that go for fresh election by holding the elections as invalid. Therefore, the Hon'ble Division Bench held that the District Registrar exercised a jurisdiction not vested in it by-law while accepting Form-VII.



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

WEB COPY

10. In the case on hand, the first respondent passed an order in the appeal as against the order passed by the second respondent thereby directed to approach the civil Court for appropriate relief without accepting Form-VII. Further, there was no direction to go for a fresh election. Therefore, the above Judgment is also not applicable to the case on hand.

11. Therefore, the first respondent rightly remanded the matter back to the second respondent to pass fresh orders, after conducting enquiry. Accordingly, the second respondent conducted enquiry and found that the report submitted by the petitioner was not a genuine one and accepted the report submitted by the third respondent. In view of the above, this Court finds no infirmity or illegality in the orders passed by the first respondent, dated 26.09.2023 as well as the second respondent, dated 08.11.2023 in both the Writ Petitions and the Writ Petitions are devoid of merits and the same are liable to be dismissed.



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

12. Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

26.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

WEB COPY

To

- 1.The Inspector General of Registration,
Office at No.100, Santhome High Road,
Chennai – 600 028.
- 2.The District Registrar (Societies),
Office at Near New Collector Office,
Vallam High Road,
Thanjavur – 613 010.



WEB COPY



W.P(MD)Nos.28359 of 2023 & 25332 of 2024

G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)Nos.28359 of 2023 & 25332 of 2024

26.11.2024