



W.P.No.19768 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 27.02.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.19768 of 2024
and W.M.P.No.21654 of 2024

Vadachennai Mittai Viyaparigal Sangam,
Rep. by its Secretary,
S.Ramachandran

.. Petitioner

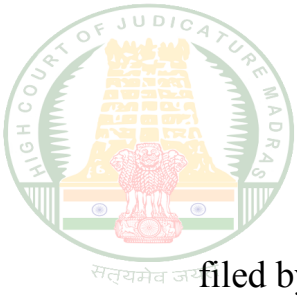
Versus

1. The District Registrar (Administration),
North,
Chennai - 600 108.

2. T.R.Sagariya Saravanan

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to proceedings No.3565/E1/2022, dated 24.05.2024 with consequential direction to the first respondent forbearing to interfere with the activities of the petitioner Society till the disposal of O.S.No.7850/2022 pending on the file of II Asst. City Civil Court, Chennai



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filed by the second respondent as well as not to act contrary to the provisions of the Tamilnadu Societies Registration at the instance of the second respondent.

For Petitioner : Mr.S.Kumara Ganeshan

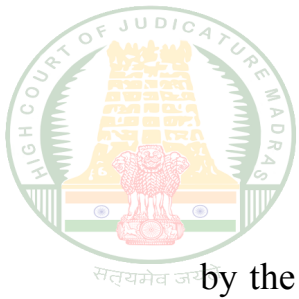
For Respondents : Mr.Karthik Jaganath,
Government Advocate for R1

: Dr.G.Krishnamurthy, for R2

ORDER

This Writ Petition is filed challenging the order of the first respondent, dated 24.05.2024 with a consequential direction forbearing the first respondent to interfere with the activities of the petitioner society till the disposal of O.S.No.7850 of 2022 pending on the file of the II Assistant City Civil Court, Chennai.

2. The case of the petitioner is that when the petitioner filed Form-7 and the other statutory forms for acceptance, the impugned order was passed



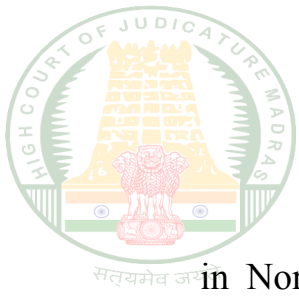
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by the first respondent. The first respondent not only refused to accept the Form-7, he pronounced upon the validity of the expulsion of some of the members of the society and also directed to re-conduct the entire election.

3. It is the further case of the petitioner that when the election has been duly conducted and when some of the members have been expelled for their activities which are against the interest of the society and when the entire issue is at large before the Civil Court in O.S.No.7850 of 2022 on the file of the II Assistant City Civil Court, Chennai, the impugned orders ought not to have been passed by the first respondent.

4. It is the case of the first respondent that with reference to the expulsion of certain members, their expulsion was done without the authorisation of the general body and as such, is *ex facie* illegal. As far as the election is concerned, the same was conducted in Mysore by hijacking some of the members when the area of operation of the petitioner society is



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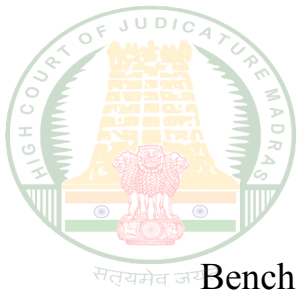
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in North Chennai. The respondent, being the supervisory authority, had already issued a direction not to conduct the election in Mysore and in spite thereof, when the election is conducted in Mysore, the order was rightly passed.

5. The private respondent also opposed the Writ Petition, by filing a counter-affidavit, on the ground that when the election was conducted in a clandestine manner, without affording an opportunity to the members, who have been expelled and the election also being held in Mysore, the order was rightly passed by the District Registrar.

6. *Mr.S.Kumara Ganeshan*, learned Counsel for the petitioner, after reiterating the grounds that are raised in the Writ Petition, would rely upon the Full Bench judgment of this Court in ***C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee, Karisal Vs. The District Registrar, Cheranmadhadevi, Tirunelveli District and Ors.***¹. The Full

¹ 2005 (2) CTC 161

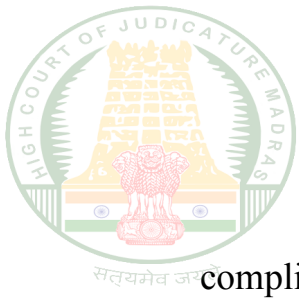


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Bench concluded that even the orders that are passed by the District Registrar which is of ministerial in nature in accepting Form-7 etc., are subject to judicial review, if arbitrary orders are passed. The Full Bench specifically answered the question that so long as the election is not declared by any competent Court of law as invalid, the Registrar cannot do so. In view thereof, the impugned order cannot stand and therefore, the learned Counsel would submit that the Writ Petition should be allowed as prayed for.

7. *Mr.Karthik Jaganath*, learned Government Advocate for the first respondent would submit that the first respondent had, as a matter of fact, issued a communication, dated 07.09.2023, prohibiting the election being conducted in Mysore. But, as per the records, it can be seen that the same was posted to the concerned society only on the date of election i.e., on 11.09.2023 which was returned to the first respondent with an endorsement that the society did not claim the same. The learned Government Advocate would submit that when the records were submitted, since there is some



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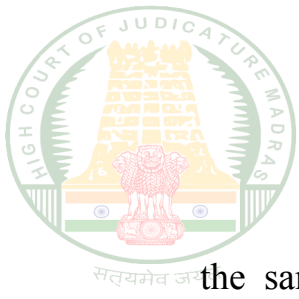
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compliance with reference to some forms and there are some illegalities with reference to the election itself, the same were rightly rejected.

8. *Dr.G.Krishnamoorthy*, the learned Counsel for the second respondent would submit that firstly, the exercise of power, in accepting or rejecting Form-7 is ministerial in nature and this Court, under Article 226 of the Constitution of India, will not go into the same. The learned Counsel would rely upon the Division Bench of this Court in *P.V.Kadiravan Vs. Kallar Kalvi Kazhagam, Usilampatti*², more specifically, relying upon paragraph No.35 of the said judgment. The learned Counsel would also rely upon the yet another Division Bench judgment in *K.Arivanathapandian and Anr. Vs. Nadar Mahajana Sangam*³, wherein, it has been held that the District Registrar, in exercise of its power under Section 36, has certain powers to hold an enquiry and whenever there is any grave illegalities that are committed, interference can be made by passing appropriate orders and

² 2008-4-LW-748

³ (1994) 2 LW 584



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the same cannot be held to be outside the jurisdiction of the Registrar.

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Paragraph Nos.10, 11 and 12 of the said judgment are relied upon. He would submit that the Full Bench judgment was passed at a time when Section 34(A) of the Act was not there in the statute book. Subsequently, even supersession of the Committee has been specifically provided by an amendment and therefore, now, the original dictum of the Full Bench that the parties can approach the Civil Court, can no longer be held as relevant.

9. I have considered the rival submissions made on either side and perused the material records of the case.

10. Firstly, with reference to the question whether this Court can exercise the judicial review with reference to the orders that are passed while accepting the Form-7 that is filed before the first respondent, the Full Bench has answered the same in paragraph No.18 and the relevant portion reads thus:-



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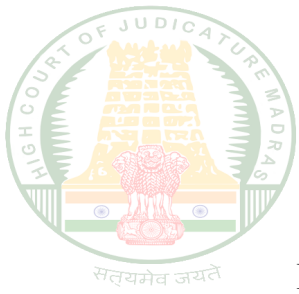


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"18.... The power in our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only, limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register. However, the exercise of power must not be arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the Writ jurisdiction."

11. With reference to the very question, the Full Bench answered the same in paragraph No.20 and the relevant portion reads thus:-

"20.... 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 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."



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In view thereof, I am unable to countenance the legal submissions that are made by the learned Counsel for the private respondent.

12. The learned Counsel would further submit that in view of the subsequent amendment, the view taken by the Full Bench may not be followed. It can be seen that by the Act 16 of 1994, Section 34(A) was inserted and not after the Full Bench judgment. Further, Section 34(A) gives the power to the Government to supersede the Committee. Therefore, the same does not in any manner deal with the power of the first respondent relating to the issue.

13. In view thereof, I am of the view that the first respondent cannot pronounce on the validity of the election or otherwise and direct the society to conduct re-election and the impugned order is without jurisdiction to that extent.



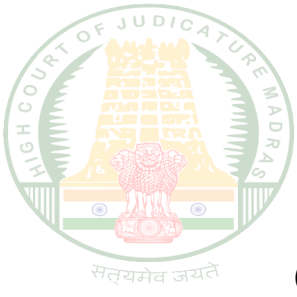
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14. Even with reference to the removal of the members, *prima facie*, the learned Counsel points out that as per by-law k(2), it is only the Executive Committee which has the power to remove the members and it is only the right of appeal provided to the general body. In view thereof, the impugned order cannot be sustained. However, it would be open for the aggrieved parties to agitate all their rights in the pending Civil Suit. No view expressed by this Court cannot come in the way of the Civil Court in deciding the validity of the expulsion of members and also the election in the manner known to law. It would also be open for the second respondent to approach the Government for supersession of the Committee under Section 34(A) if he feels that grounds are made out in respect of the same.

15. With the said liberty preserved to the private respondent, this Writ Petition is ordered on the following terms:-

(i) The impugned order, dated 24.05.2024 bearing proceedings No.3565/e1/2022, shall stand set aside;



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(ii) The first respondent is directed to take the Form-7 on file in the manner known to law and if any other procedural compliances that are to be made, the same shall be complied with by the petitioner;

(iii) Since the period of office itself is getting over, the II Assistant City Civil Court, Chennai is requested to dispose of the O.S.No.7850 of 2022 as expeditiously as possible;

(iv) There shall be no order as to costs.

27.02.2025

Neutral Citation : yes
grs

To

1. The II Assistant City Civil Judge,
Chennai.
2. The District Registrar (Administration),
North,
Chennai - 600 108.



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D.BHARATHA CHAKRAVARTHY, J.

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