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W.P.(MD)Nos.21458 of 2023, 2374, 6473 and 6575 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	12.07.2024
Pronounced on	03.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD)Nos.21458 of 2023, 2374, 6473 & 6575 of 2024
and W.M.P.(MD)Nos.2376, 2377, 6054, 6055, 6137 & 6138 of 2024**

W.P.(MD)No.21458 of 2023:

K.Kannan

... Petitioner

Vs.

1.Yadhavar Kalvi Nidhi,
A Registered Society
(Reg No.85/1962) running Yadhava College &
Yadhava College of Education,
Represented through its Hon'ble Administrator,
Govindarajan Campus, Tirupalai,
Madurai – 625 014.

2.The Registrar of Societies,
Madurai North,
Bibikulam, Madurai – 2.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, to direct the Hon'ble Administrator of the 1st respondent society to issue true copies of the documents mentioned in my letter dated 07.08.2023 related to election conducted to the 1st respondent society on 05.08.2023 namely the List of Voters cast their votes, list of voters signed in the registry, CCTV footages of the election proceedings to the petitioner by



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considering his representation dated 07.08.2023.

W.P.(MD)No.2374 of 2024:

R.V.N.Kannan

... Petitioner

Vs.

1.The Director of Collegiate Education,
Institute of Advanced Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai – 600 015.

2.The Joint Director of Collegiate Education,
Madurai Region, Palam Station Road,
Madurai – 625 002,
Madurai District.

3.The District Registrar,
Madurai.

(R3 is suo motu impleaded vide Court order
dated 05.02.2024 in W.P.(MD)No.2374 of 2024)

4.S.Rengarajan
(R4 is impleaded vide Court order dated 26.03.2024
in W.M.P.(MD)No.5129 of 2024 in W.P.(MD)No.2374 of 2024)

5.P.Gunasekaran
(R5 is impleaded vide Court order dated 26.03.2024
in W.M.P.(MD)No.5138 of 2024 in W.P.(MD)No.2374 of 2024)

6.L.Nandagopal Yadav
(R6 is impleaded vide Court order dated 26.03.2024
in W.M.P.(MD)No.6161 of 2024 in W.P.(MD)No.2374 of 2024)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for
issuance of a Writ of Certiorari, to call for the records relating to the impugned



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proceedings issued by the 1st respondent herein in Na.Ka.No.38148/G4/2023 dated 24.01.2024 and quash the same.

W.P.(MD)No.6473 of 2024:

L.Nandagopal Yadav

... Petitioner

Vs.

- 1.The Director of Collegiate Education,
Institute of Advanced Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai – 600 015.
- 2.The Joint Director of Collegiate Education,
Madurai.
- 3.The District Registrar,
Madurai North.
- 4.R.V.N.Kannan
Secretary, Yadava College,
Thiruppalai, Madurai – 625 014.
Madurai District.
- 5.Shri S Rajeswaran – Administrator/Election Officer,
(Hon'ble Retired Justice)
Yadava Kalvi Nidhi/College,
Thiruppalai, Madurai – 14.
- 6.Sivaramakrishnan SP
- 7.Senthil P
- 8.Balakrishnan V
- 9.L.Muthukrishnan
- 10.S.Pandian



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11.C.Jayaraman

12.K.Kannan

13.C.Krishnavel

14.N.Maniselvan

15.S.Muthukrishnan @ Kittu

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Declaration, declaring that Form VII filed by the respondent administrator as null and void being in violation of Section 30, 31, 34A and Section 34B and Rule 28, 33A, 33B of the Societies Registration Act, 1975 and the order of the Division Bench dated 15.11.2023 passed in W.A. (MD).No.1968 of 2023.

(Prayer amended vide Court order dated 03.04.2024 in W.M.P.(MD)No.6526 of 2024 in W.P.(MD)No.6473 of 2024 by CSNJ).

W.P.(MD)No.6575 of 2024:

P.Gunasekaran

... Petitioner

Vs.

1.The Director of Collegiate Education,
Institute of Advanced Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai – 600 015.

2.The Joint Director of Collegiate Education,
Madurai Region, Palam Station Road,
Madurai – 625 002,
Madurai District.



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3. The District Registrar of Societies,
Madurai.

4. R.V.N.Kannan
Secretary, Yadava College,
Thiruppalai, Madurai – 625 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent related to the proceedings in ஸ்ரீ.மு.எண்.38148/ஜி4/2023 dated 27.10.2023 by permitting the 4th respondent to act as the secretary to the college committee of the Yadava College, Thirupalai, Madurai and quash the same as illegal, ultra virus and as against the provisions of Tamilnadu Private Colleges Regulation Act and consequently direct the 1st respondent to take control and administration of the Yadava College, Thirupalai, Madurai through the 2nd respondent.

For Petitioners (in all W.Ps) : Mr.T.Mohan, Senior Counsel
for Mr.E.V.N.Siva
for petitioner in W.P.(MD)No.2374 of 2024 &
R4 in W.P.(MD)Nos.6575 & 6473 of 2024
Mr.M.Ponniah
for petitioner in W.P.(MD)Nos.6575 of 2024 &
21458 of 2023
Mr.Aravind Subramanian, Senior Counsel
for Ms.K.Dheepalakshmi
for petitioner in W.P.(MD)No.6473 of 2024
R6 in W.P.(MD)No.2374 of 2024

For Respondents (in all W.Ps) : Mr.Veerakathiravan
Additional Advocate General III
Assisted by Mr.T.Amjad Khan,
Government Advocate for R1 to R3 in all W.Ps
Mr.Aravind Subramanian
Senior Counsel



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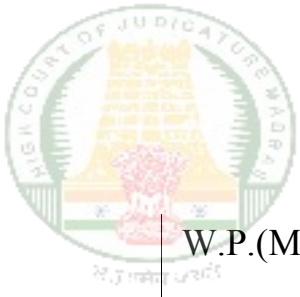
for Mr.S.Satheesh Kumar
for R4 & R6 in W.P.(MD)No.2374 of 2024
Mr.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates
for R6, R7, R8, R11, R13, R14 & R15
in W.P.(MD)No.6473 of 2024

COMMON ORDER

By this common order, all these writ petitions are being disposed of.

2. The present writ petitions have been filed for the following relief:

W.P.(MD)No.21458 of 2023	K.Kannan has prayed for a mandamus to direct the administrator of the first respondent society namely Yadhavar Kalvi Nidhi to issue true copies of the documents mentioned in the letter dated 07.08.2023 relating to the election held on 05.08.2023, namely the list of voters who cast their votes, list of voters signed in the register, CCTV footage of the election proceeding.
W.P.(MD)No.2374 of 2024	R.V.N.Kannan has challenged the impugned proceeding of the first respondent (Director of Collegiate Education) in his proceedings dated 24.01.2024 bearing Ref.Na.Ka.No. 38148/G4/2024.



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W.P.(MD)No.6473 of 2024	L.Nandagopal Yadav has prayed for declaration declaring that form vii filed under Tamilnadu Societies Registration Act and Rules 1975 by the respondent administrator as null and void being in violation of section 30, 31, 34A and Section 34b and Rule 28, 33A, 33B of the Societies Registration Act 1975 and the Division Bench dated 15.11.2023 passed in WA(MD) 1968 of 2023.
W.P.(MD)No.6575 of 2024	P.Gunasekaran has prayed for Certiorarified Mandamus calling for the records of the first respondent (Director of Collegiate Education) relating to the proceedings in Moo.Mu. 38148/G4/2023 dated 27.10.2023 by permitting the fourth respondent to act as secretary of the college committee of the Yadava College, Thirupalai, Madurai to quash the same as illegal ultravires and as against the provisions of Tamilnadu Private Colleges Regulation Act and consequently, to direct the first respondent to take control and administration of the Yadava College, Thirupalai, Madurai through the second respondent

3. Operative portion of the impugned order dated bearing Reference No.Moo.Mu.38148/G4/2023 dated 27.10.2023 in W.P.(MD)No.6575 of 2024 reads as under:

“தமிழ்நாடு தனியார் கல்லூரிகள் ஒழுங்காற்று விதிகள் 1976-ன் 9-ம் விதியின் கீழ் உள்ள துணை விதிகள் 2-இன் கீழ் மதுரை யாதவா கல்லூரியின் செயலராக திரு.ஆர்.வி.என்.கண்ணன் என்பார். படிவம் 7 சமர்ப்பிக்கப்பட வேண்டும் எனும் நிபந்தனைக்குட்பட்டு 10.09.2023 முதல் மூன்று ஆண்டுகள் செயல்பட அனுமதி ஆணை வழங்கலாகிறது.”

4. Operative portion of the impugned communication dated 24.01.2024



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bearing Ref.Na.Ka.No.38148/G4/2024 of the first respondent addressed to the

2nd respondent / The Joint Director of Collegiate Education in W.P.(MD)No.

2374 of 2024 reads as under:

“இந்நிலையில் மதுரை யாதவர் கல்வி நிதிக்கு புதிதாக தேர்வு செய்யப்பட்ட உறுப்பினர்கள் மதுரை மாவட்ட பதிவாளர் அலுவலகத்தில் படிவம் 7 கோர்வை செய்து இதுநாள் வரை கல்லூரிக் கல்வி இயக்குநருக்கு சமர்ப்பிக்கப்படாத காரணத்தாலும், யாதவர் கல்வி நிதியின் தகுதியில்லா குழு உறுப்பினர்களை நீக்குவது தொடர்பாக **திரு.கந்தவேலு** என்பவர் தொடர்ந்த மேல்முறையீட்டு வழக்கு ரு.யு. (ஆனு)மே.1968 மக 2023 இன் மீது **15.11.2023** அன்று வழங்கப்பட்ட தீர்ப்பாணையில் மனுதாரர் கோரிக்கை தொடர்பாக சிவில் நீதிமன்றத்தை அனுகலாம் என ஆணை வழங்கப்பட்டுள்ள நிலையிலும் **திரு.கண்ணன்** என்பாரை யாதவர் கல்லூரிச் செயலராக செயல்பட அனுமதி வழங்கப்பட்ட பார்வை (4) இல் காணும் கல்லூரிக் கல்வி இயக்குநரின் செயல்முறைகள் ரத்து செய்யப்படுகிறது.

மதுரை யாதவர் கல்லூரியில் பணி புரியும் ஆசிரியர்கள் மற்றும் ஆசிரியரல்லா பணியாளர்கள் நலன் மற்றும் அப்பணியாளர்களுக்கு ஊதியம் பெற்று வழங்கப்பட வேண்டும் என்பதை கருத்தில் கொண்டு அரசாணை நிலை எண் 1021 கல்வித் துறை நாள் 02.09.1985ன் அடிப்படையில் நேரடி ஊதிய பட்டுவாடா மற்றும் நிலுவையில் உள்ள ஊதியம் பெற்று வழங்குவதற்குரிய அனைத்து நடவடிக்கை மேற்கொள்வதற்கான அதிகாரத்தை மதுரை மண்டலக் கல்லூரிக் கல்வி இணை இயக்குநர் அவர்களுக்கு இவ்வாணை வழங்கப்படும் நாள் முதல் அனுமதி அளித்து ஆணை வழங்கப்படுகிறது.”

5. The arguments were advanced by Mr.T.Mohan, learned Senior Counsel for Mr.EVN.Siva, learned counsel for the petitioner in W.P.(MD)No. 2374 of 2024 and 4th respondent in W.P.(MD)Nos.6473 & 6575 of 2024, Mr.M.Ponniah, learned counsel for the petitioner in W.P.(MD)Nos.21458 of 2023 & 6575 of 2024, Mr.K.Dheepakshi, learned counsel for the petitioner in



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W.P.(MD)No.6473 of 2024, Mr.Aravindan, learned Senior Counsel for the respondents 4 & 6 in W.P.(MD)No.2374 of 2024, Mr.Veerakathiravan, learned Additional Advocate General III assisted by Mr.J.Amjadkhan, learned Government Advocate for the respondents 1 to 3 in all the writ petitions and Mr.Ajmal Khan, learned Senior Counsel for M/s.Ajmal Associates for the respondents 6 to 8, 11 and 13 to 15 in W.P.(MD)No.6473 of 2024.

6. The petitioner in W.P.(MD)No.2374 of 2024 and 4th respondent in W.P.(MD)Nos.6473 & 6575 of 2024 represented by Mr.T.Mohan, learned Senior Counsel and the respondents 6 to 8, 11 and 13 to 15 in W.P.(MD)No. 6473 of 2024 represented by Mr.Ajmal Khan, learned Senior Counsel for M/S.Ajmal Associates same together.

7. The learned counsel for the petitioner in W.P.(MD)Nos.21458 of 2023 & 6575 of 2024 also appeared for the respondents in other two writ petitions along with W.P.(MD)No.6473 of 2024.

8. The dispute in these writ petitions pertains to a internal power struggle to manage the affairs of the Yadhavar Kalvi Nidhi, a registered society under the provisions of the Tamil Nadu Societies Registration Act, 1975



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registered as Doc.No.85/1962 (Madurai North). The said society runs colleges which appeared to be a money spinners and thus, there is a power struggle to control the same by various persons.

9. The Yadhava College was started in the year 1969 and was later affiliated to Madurai Kamarajar University. The Government of Tamil Nadu has also given 39.57 acres of land in S.No.6/17 and 6/13 in Thirupalai Village, Madurai North Taluk and the land revenue stands in the name of the Secretary, Yadhava College Managing Council for construction of college building vide G.O.Ms.No.2350, Revenue Department, dated 24.07.1970.

10. After the Societies Act XXI of 1860 was repealed, the Tamil Nadu Societies Registration Act, XXVII of 1975 came into force. The Yadhavar Kalvi Nidhi was deemed to be registered in terms of Section 53 of the Tamil Nadu Societies Registration Act, 1975. With the enactment of Tamil Nadu Private Colleges (Regulation) Act, 1976, the college also came to be registered and the college has been running in accordance with the provisions of the aforesaid Act and Rules made thereunder. During the course of this history, the bye-law has been amended from time to time.



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11. There has been internal power struggle right from 2004. Earlier, W.P.(MD)No.2181 of 2009 was filed by one Kannan, who claimed to be the Secretary of the Society namely Yadhava Kalvi Nidhi and had requested the District Registrar to reject Form VII filed by one K.P.Navaneethakrishnan and to take action against the Officials, who accepted Form VII submitted by K.P.Navaneethakrishnan.

12. This Court by an order dated 15.10.2009, dismissed the said writ petition with liberty to agitate the issue before the competent Civil Court.

13. In the said writ petition, it was observed that the filing of Form VII that had been filed before the Director of Collegiate Education and acceptance by the District Registrar would not tantamount to a decision on the validity of the election and therefore, election disputes are to be decided in a Civil Court that had been filed before the Directorate of Collegiate Education and was declared as Correspondent of the Yadhava College. Thus, O.S.No.113 of 2011 came to be filed before the Civil Court, which is still said to be pending.

14. Submissions of learned Senior Counsel for the petitioner in W.P. (MD)No.2374 of 2024 & 4th respondent in W.P.(MD)No.6473 of 2024:



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(i) The proceeding of the 1st respondent (Director of Collegiate Education) in Na.Ka.No.38148/ G4/2023 dated 24.01.2024 impugned in W.P. (MD)No.2374 of 2024 cancels the earlier approval granted on 27.10.2023 has been issued in gross violation to the principles of natural justice.

(ii) It is submitted that before issuing the impugned proceedings dated 24.01.2014 bearing Na.Ka.No.38148/G4/2023, no notice or any opportunity was given by the 1st respondent (Director of Collegiate Education) and the 1st respondent (Director of Collegiate Education) failed to see that G.O.Ms.No. 1021 Education Department dated 02.09.1985 can be invoked only when there is dispute in the management, whereas the present Executive Committee has been elected for a period of 3 years in an election conducted by the learned Administrator appointed by this Court which also stands confirmed by order dated 20.10.2023 in W.P(MD)No.22737 of 2023 and therefore, the 1st respondent (Director of Collegiate Education) cannot raise any doubts with regard to the election of present Executive Committee by relying on Order dated 15.11.2023 in W.A(MD)No.1968 of 2023, which has nothing to do with the discharge of duties by the present Executive Committee.

(iii) It is submitted that the 1st respondent (Director of Collegiate Education) failed to see that the learned Administrator was appointed by this Court and after the election was held, had directly communicated the District



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Registrar on **10.09.2023** itself and the District Registrar who was memo discharging only ministerial function as per Section 34 A of the Tamil Nadu Societies Registration Act 1975 was duty bound to accept the same. Hence the doubt as regards the non-production of Form-VII and Tamil Nadu Societies Registration Rules, 1978 was without any justification and amounts to doubting of the Form-VII submitted by the learned Administrator appointed by this Court, which was produced along with the proposal for approval itself.

(iv) It is submitted that the 1st respondent (Director of Collegiate Education) failed to see that none of the provisions (Regulation) Act and Rules mandates for filing of Form-VII for approval of college Secretary, in fact, as per Rule 9 of the Tamil Nadu Private Colleges (Regulation) Rules, application for change of Secretary shall be in Form-6, which was already submitted before the 1st respondent herein and therefore ought not to have issued impugned submission of Form VII which is not mandated under of the Tamil Nadu Private Colleges (Regulation) Act and Rules.

(v) It is submitted that the 1st respondent (Director of Collegiate Education) ought to have seen that GO.Ms.No.1021 Education Department dated 02.09.1985 itself was quashed by this Court vide its Order dated 05.10.2012 in W.P.No.9145 of 2012 on the ground that Executive instruction cannot be issued contrary to the Tamil Nadu Private Colleges (Regulation) Act



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& Rules and the said decision is subjudiced before the Division Bench of this Court in W.A.(MD)No. 863 of 2012 and on account of the interim stay granted in the said writ appeal in all fairness the 1st respondent (Director of Collegiate Education) ought not to have arbitrarily invoked the powers under GO.Ms.No. 1021 (Education Department) dated 02.09.1985.

15. Submissions of the 4th respondent in W.P.(MD)No.6473 of 2024 :

(i) It is submitted that W.P.(MD)No.6473 of 2024 has been filed by L.Nandagopal Yadav one of the former member of the Yadavar Kalvi Nithi for issuance of a writ of declaration declaring the Form VII filed under Tamil Nadu Societies Registration Act, 1975 and Rules, 1978 by the respondent Administrator as null and void and contravening the provisions of Section 30, 31 & 34 A of the Societies Registration Act, 1975.

(ii) The learned Administrator was appointed by this Court vide its Order dated 31.03.2021 in W.P.(MD)No.14362 of 2018 which was a consent order including the writ petitioner and the same reached its finality and the learned Administrator issued Election Notification on 30.06.2023, prescribing the Election Schedule and final 52 contestants list was published on 26.07.2023. The writ petitioner in W.P.(MD)No.6473 of 2024 having not contested the election and having cast vote on 05.08.2023, cannot be aggrieved of the above



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election. If at all, any person is aggrieved by the election results announced on 09.09.2023, it shall be only by one among the 52 contestants and not the said writ petitioner. Therefore, the writ petitioner is neither aggrieved nor affected person and therefore, cannot challenge the validity of such Form-VII submitted by the learned Administrator and therefore, the writ petition is not at all maintainable.

(iii) It is submitted that the General Body of Yadavar Kalvi Nithi vide resolution dated 05.11.2023 has also resolved to remove L.Nandagopal Yadav (petitioner in W.P.No.6473 of 2024) from the basic membership of the society and the said decision was communicated to him on 26.02.2024. It is submitted that the writ petitioner having filed the same at page 520 of the Typed Set of Papers in WP(MD)No.6473 of 2024 and having failed to challenge the election in a manner known to law, cannot now turn around and challenge the validity of Form-VII submitted by the learned Administrator and therefore, the writ petition is not at all maintainable.

(iv) It is submitted that the provisions referred in the prayer of W.P. (MD)No.6473 of 2024 namely Sections 30, 31, 34A & 34 B and Rule 28, 33A & 33B of the Tamil Nadu Societies Registration Act and Rules have no nexus whatsoever as regards the Form-VII filed by the Administrator. It is therefore submitted that W.P.(MD)No.6473 of 2024 is liable to be dismissed.



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16. Submissions of the 4th respondent in W.P.(MD)No. 6575 of 2024:

(i) W.P.(MD)No.6575 of 2024 has been filed by P.Gunasekaran one of the member of the Yadava Kalvi Nidhi, challenging the proceedings of the 1st respondent (Director of Collegiate Education) Moo.Mu.38148/G4/2023 dated 27.10.2023 approving R.V.N.Kannan as secretary of the college committee of the Yadava College, Thirupalai, Madurai.

(ii) Appointment of learned Administrator by this Court by order dated 31.03.2021 was a consent order including the writ petitioner and the same reached its finality and the learned administrator announced election notification on 30.06.2023, prescribing the election schedule and final 52 contestants list was a published on 26.07.2023 and the writ petitioner having not contested the election and having casted the vote on 05.08.2023, cannot be aggrieved of the election. If at all any one is aggrieved by the election results, it shall be only one among the 52 contestants and not the writ petitioner. Therefore, the writ petitioner is neither aggrieved nor affected person, cannot challenge the validity of form vii submitted by the learned administrator and the writ petition is not at all maintainable

(iii) P.Gunasekaran, without challenging the election held on 05.08.2023 or declaration of election results, now indirectly challenging the college



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constitution of proceedings of the Director of Collegiate Education in Mu.Mu.No.38146/G4/2023 dated 27.10.2023 approving R.V.N.Kannan as Secretary of the College.

(iv) If at all, the writ petitioner is aggrieved by the election, the same can be challenged in a manner known to law and such exercise cannot be done before this Court, particularly, in a writ petition filed under Article 226 of the Constitution of India. until the election of the new executive committee is challenged in a manner known to law, the consequential approval of college committee secretary cannot be questioned by merely challenging the proceedings of the Director of Collegiate Education in Mu.Mu.No.38146/G4/2023 dated 27.10.2023.

17. Submissions of learned Senior Counsel for the respondents 6 to 8, 11 & 13 to 15 in W.P.(MD)No.6473 of 2024:

(i) It is submitted that L.Nandagopal Yadav (petitioner in W.P. (MD)No6473 of 2024 was already removed from the society and the said removal has not been challenged. As such, W.P.(MD)No.6473 of 2024 as on date is not maintainable. The Writ petitions filed by a non-members of the society (the writ petition challenging either filing or accepting or rejecting Form-VII is not maintainable. It is submitted that filing of Form VII is only a



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ministerial act as held by the Full Bench of this Court in ***C.M.S. Evangelical***

Suvi David Memorial Higher Secondary School 2005 (2) CTC 161, it was

held that so long as the election is not declared invalid in the manner known to law, no direction for fresh election could be ordered. The relevant paragraph is as follows:

"20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of sub-section (9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence the power of the Registrar to issue such direction under sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only resort to the power under Section 37 to cancel the registration. 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. Accordingly, the issue is answered. Post the Writ Appeals for disposal accordingly."



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(ii) It is submitted that the said judgment was followed by the Division Bench of this Court in ***R.Muralidaran & Ors. Vs. The District Registrar & Ors. (2008) 1 MLJ 1308***, wherein, it was held that a writ would not lie against any ministerial act performed by the Registrar of Societies under the provisions of the Tamil Nadu Societies Registration Act including the acceptance or rejection of Form No.VI. The relevant paragraphs of the decision in ***R.Muralidaran & Ors. Vs. The District Registrar & Ors. (2008) 1 MLJ 1308*** are extracted hereunder:

" 39. Therefore, we hold that a writ would not lie against any ministerial act performed by the Registrar of Societies under the Provisions of the Tamil Nadu Societies Registration Act, including the acceptance or rejection of Form No. VI. Whenever Form No. VII is filed, the District Registrar can only call for further information/explanation and file the same along with the Form under Section 34 and he is not entitled to adjudicate any dispute. Therefore, the direction issued by the District Registrar in his order dated 30.05.2007 holding the elections held on 28.01.2007 to be invalid and directing the parties to go in for fresh election, cannot be sustained, on account of the fact that he exercised a jurisdiction not vested in him by law while accepting Form VII.

40. In view of the above, the writ appeal is allowed and the order of the learned Judge dated 12.09.2007 passed in W.P.No.24017 of 2007 is set aside and the writ petition filed by the second respondent is dismissed. However, it is open to the appellants as well as the second respondent to approach the Civil Court with regard to the validity of the elections held either on 28.01.2007 or on 9/ 15.07.2007. It is further made clear that if the parties choose to approach the Civil Court, the Civil Court should deal with the matter independently on merits without reference to any order passed by the Registrar of Societies either on 28.01.2007 or on 30.05.2007, since the Registrar had no powers to go into the validity of the elections or to issue a direction to hold fresh elections. The writ appeal is allowed on the above terms."

(iii) In the earlier round of litigations, the decision of this Court in



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W.P.(MD).Nos.16340 of 2023, 18849 & 18939 of 2023 dated 04.09.2023 was confirmed by the Division Bench of this Court in W.A(MD).No. 1968 of 2023 dated 15.11.2023, was pleased to direct the parties to move before the Civil Court, if so aggrieved by the election of the executive committee to the society and as such it is not open to the writ petitioner to file writ petition seeking relief which will have an effect on nullifying the election.

(iv) The validity of election of executive committee to the society registered under the Tamil Nadu Societies Registration Act can be challenged only before the Competent Civil Court and not by invoking the discretionary jurisdiction of this Court under Article 226 of the Constitution of India. The writ petition involves disputed question of fact involving examination and cross examination of appreciation of evidence, witnesses and as such it cannot be decided in a writ petition under Article 226 of the Constitution of India.

18. Submissions of learned Senior Counsel for the petitioner in W.P. (MD)No.6473 of 2024:

(i) The learned Senior Counsel for the petitioner submits that the learned Administrator failed to follow his appointment order and the power of the Administrator is neither traceable to the statutory provisions of the Society Registration Act nor traceable to the order of appointment of the Administrator



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dated **31.03.2021**.

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(ii) It is submitted that the learned Administrator had moved petition in **W.M.P.(MD)Nos.18282 of 2022** in **W.P.(MD)No.21216 of 2019** and **W.M.P(MD)Nos.18286 of 2021** in **W.P.(MD)No.21218 of 2019** before this Court to enroll new members and the Court was pleased to allow the same. Subsequently, the Divisional Bench of this Court in its order dated **12.04.2022** vide **W.A.(MD)Nos.29 & 30 of 2022**, set aside the above writ petition and observed that 5th respondent acts are also clearly outside the scope of the power of the learned Administrator as per the discussions held *supra*.

(iii) It is submitted that the learned Administrator totally failed to obey the Divisional Bench operative position of the order the status of him as Administrator is within the provision of Section 34-A of the Tamil Nadu Societies Registration Act, 1975. Thereby his appointment expired on **30.03.2022** and not extended by the Court or Government which is mandatory under the provision of Act and that all the action taken by the 5th respondent after taking charge on **31.03.2021** is null & void

(iv) It is submitted that the Administrator's power is of the committee and cannot take away the supremacy of General Body, and the Administrator thus failed to call General Body meeting within 6 months of the financial year ending 2021, 2022 & 2023. Even in the Election notification he proposed to



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call General Body meeting in a vague manner without any Agenda or placing the Account for the period he was functioning, which was questioned by this petitioner but without any response for the reasons best known to him to announce he is not holding General Body meeting.

(v) It is submitted that even assuming the election is in order, the Administrator was negligent and took undue advantage of his powers without issuing proper notice for holding Executive meeting to elect office bearers and College committee to elect secretary under the provision of law. The Administrator has handed over the College in grave violation to his appointment order Para-20 (ix).

(vi) It is submitted that as per the observations of the Division Bench of this Court in Para 12 of the **W.A.(MD)No.1968 of 2023**, none of the Writ Petitions instituted to resolve the membership issues and election dispute in a Society registered under the Tamil Nadu Societies Registration Act, 1975 are entertainable and are beyond the scope of Article 226 of the Constitution of India.

(vii) It is further submitted that under the provision of Section 34-A of the Tamil Nadu Societies Registration Act, 1975, the Divisional Bench has observed that his period of appointment expired on **30.03.2022**, thereafter his functioning is invalid in the eyes of Law without getting extended. The



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Administrator over exceeded all his power in all means despite the remarks of Divisional Bench. Thus, the entire process of election without following the Court appointment order, Divisional Bench remarks and mandatory provision of the society act are unconstitutional and manifestly arbitrary.

19. Submissions of learned counsel for the petitioner in W.P. (MD)No.6575 of 2024:

(i) The learned counsel for the petitioner submits that the order of the 1st respondent is erroneous and exceeds his powers conferred under the Tamil Nadu Private Colleges (Regulation) Act, 1976 by permitting the 4th respondent to act as the Secretary of the College Committee on temporary basis and on condition to submit **Form VII** to the 3rd respondent. Such an order can't be passed and the same is liable to be set aside since the 1st respondent totally failed to verify whether the College Committee was constituted as per the provisions of the Tamil Nadu Private Colleges (Regulation) Act, 1976 Act.

(ii) It is submitted that the 1st respondent has totally failed to follow Rule 8 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976. In fact, after the conclusion of the alleged election for the Executive Committee members to the Yadavar Kalvi, Nidhi Society, they ought to have constituted the 'college committee' in consonance and in accordance with Rule 8 of the Tamilnadu



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Private Colleges (Regulation) Rules, 1976.

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(iii) It is further submitted that the 1st respondent totally failed to verify whether the executive committee members of the said society had been constituted legally, under section 11 and Rule 8 of the Act. The college committee should consists

- a) The representatives of the educational agency
- b) Principal of the college
- c) Two Senior most professors of the college
- d) One member nominated by the university concerned, in this case, Madurai KAMARAJ University.

(iv) But in the present case, no such valid 'college committee' was constituted either by the Hon'ble Administrator of the college appointed by the Hon'ble court or by the executive committee members of the society, they were 8 in Numbers, to the Yadava College.

(v) It is submitted that in the absence of a valid 'college committee', the claim made by the 4th respondent that he was nominated as secretary to the 'college committee' is totally illegal, ultra virus and unsustainable in law. Such vital aspects were failed to be considered by the 1st respondent while passing the impugned order challenged in this writ petition.



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(vi) It is submitted that the 1st respondent (Director of Collegiate Education) totally failed to see that there was no 'seven days notice' given by the society's executive committee members to the members of the college committee to convene a meeting for the election or nomination of the secretary to be represented as secretary for the 'college committee'.

(vii) It is further submitted that in the absence of any such notice for convening a meeting for 'college committee' and also in the absence of a resolution showing the participation of the 'college committee' members (not the eight members who alleged to have claimed to be the executive committee member of the society) as the members of the college committee, and in the absence of other members as per Rule 8 stated supra as part and parcel of the college committee, the Order is illegal and perverse. Hence the impugned order challenged in this writ petition shows the non-application of mind by the authority while passed the impugned order.

(viii) It is submitted that the 1st respondent failed to verify and see as no meeting was held for the/by the 'college committee' and the alleged committee was not legally constituted. As seen from the records submitted by the 4th respondent as well as the President of the 'college committee', it will be clearly seen that there was no valid meeting for the 'college committee' and there was no proper nomination of the secretary.



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(ix) It is evident from the records submitted by the 4th respondent, the executive committee members of the Yadavar Kalvi Nidhi Society were alleged to have claimed as they were the members of the 'college committee' and they themselves nominated the 4th respondent as secretary of the 'college committee' on their own whims and fancies. Hence there was no sanctity in the claim made by the 4th respondent and the impugned order was illegal and liable to be set aside.

(x) It is submitted that the duty is caused upon the 1st respondent to verify whether any valid election was conducted to the society for the submission of **Form VII** and in the absence of **Form VII**, which is also a fundamental procedure to inform to the authority under the Act, as there is a change in the office of the Secretary. Even today the **Form VII** alleged to have been submitted by the Hon'ble Administrator was not accepted or taken in on the file of the 3rd respondent.

(xi) It is further submitted that the **Form-VI** submitted by the 4th respondent mentions that there was an alleged meeting held on 16th September 2023, for the 'College Committee' and for the nomination or selection of the president and secretary for the same. But actually no such records are available and nothing was submitted even before this Hon'ble court in the earlier round of litigation filed by the 4th respondent.



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20. Submissions of learned counsel for the petitioner in W.P. (MD)No.21458 of 2023:

(i) The learned counsel for the petitioner submits that the election was conducted in the 1st respondent society on **05.09.2023** and that the method in which the election was conducted was against the Election Notification issued by the learned Administrator dated **30.06.2023** and that there are violations in the manner the election was conducted and it vitiated the entire process of election conducted on **05.08.2023**.

(ii) It is further submitted that in the final list of members published by the learned Administrator, they were more than 100 names of the deceased persons found in the members list and three notices were sent to three different addresses, for one single member and by holding the letter issued by the deceased, a person claimed to be the person of the addressee has cast his vote even before the original person came for his vote and he was also permitted to cast his votes.

(iii) In other words for the one particular member three addresses were shown with different serial numbers in the list, and apart from that, the names of some of the persons were also found in the members list which excluded 932



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members challenged before this Court and that person's name was also available in the 932 members list challenged in the said writ petition. Hence some of the persons had cast their vote twice, in both the booths meant for the election.

(iv) It is submitted that it is the bonafide belief and apprehension of the petitioner that bogus votes were casted on the date of election with the blessings of Mr.K.P.Navaneethakrishnan and he announced a team of 11 members for contesting in the election under the name 'K.P. Navaneethakrishnan Team'. The said Mr.K.P.Navaneethakrishnan is the sole reason for the collapse of the administration of the Society and committed malpractices, forgery in the administration of the society as well as the college and has done his business to take control of the Society through the back doors. Hence

(v) It is submitted that for the purpose of eliminating the bogus votes and also to identify the votes which were cast in the name of the deceased persons and also in the name of the 7 NRI person, the petitioner is in requirement of the documents namely, list of voters those who signed before casting the votes, List of Voters cast their Votes and CCTV footage recorded in all pooling booth on **05.08.2023** in order to identify the malpractice committed by the team of the members of K.P.Navaneethakrishnan Team.



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(vi) It is submitted that the petitioner made a request to Administrator on

07.08.2023 to serve the copy of the documents mentioned in his letter and after receiving the said letter, the learned Administrator had instructed the petitioner to collect those documents and details within 10 days from the date of letter and had also made an endorsement to that effect. However even after several days, the petitioner was not provided with the necessary documents to safeguard the society and also eliminate the bogus votes, cast on that day.

21. I have considered the arguments advanced by Mr.T.Mohan, learned Senior Counsel for the petitioner in **W.P.(MD)No.2374 of 2024** (Mr.R.V.N.Kanan) and Mr.Arvind Subramanian, learned Senior Counsel for the petitioner in **W.P.(MD)No.6473 of 2024** (L.Nandagopal Yadav). The petitioner in **W.P.(MD)No.2374 of 2024** (Mr.R.V.N.Kanan) is the 4th respondent in **W.P.(MD)Nos.6473 & 6575 of 2024**.

22. I have considered the submissions made by Mr.Veerakathiravan, learned Additional Advocate General III for the official respondents and the arguments advanced by Mr.M.Ponniah, learned counsel for the petitioner in **W.P.(MD)No.21458 of 2023** (K.Kannan) & **W.P.(MD)No.6575 of 2024**



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(Mr.P.Gunasekaran). I have also considered the submissions made by the private respondents in these writ petitions.

23. If **W.P.(MD)No.2374 of 2024** is allowed, rest of the writ petitions have to be dismissed. On the other hand, if **W.P.(MD)No.2374 of 2024** is to be dismissed, the other writ petitions may have to be decided independently on merits.

24. The petitioner in **W.P.(MD)No.2374 of 2024** has challenged the impugned communication of the Directorate Of Collegiate Education dated **24.01.2024** whereby the powers of the said petitioner, the members of the Yadava Kalvi Nidhi (a Society) and Secretary of the College Committee of Yadhava College has been withdrawn on the ground that **Form VII** required under **Rule 17 (2)** of the Tamil Nadu Societies Registration Rules, 1978 has not been filed by the petitioner.

25. **Form VII** required under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978 was filed directly by the learned Administrator on **10.09.2023** with the District Registrar/Registrar of Societies after the election results was declared **09.09.2023** by the learned Administrator.



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26. It should be remembered that the election was held by the learned Administrator pursuant to order dated **31.03.2021** of this Court in **W.P. (MD)Nos.14362, 14569 of 2018 etc. batch.**

27. Admittedly, there is no direct challenge to the election held pursuant to the directions of this Court in the above writ petition. In fact, during the course of the election, **W.P.(MD)Nos.18849, 18939 of 2023 & 16340 of 2022** were filed for the following reliefs:-

PRAYER in W.P.(MD)No.16340 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the sole administrator of the first respondent Society to delete 932 members out of 2874 total number of members finalized by the Sole Administrator of the first respondent as eligible voters for the upcoming election of the first respondent Society and also directing the members list to conduct the election for the first respondent Society, by considering the petitioner-s representation, dated 28.05.2022 within a time frame as framed by this Court.

PRAYER in W.P.(MD)No.18849 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the first respondent from proceeding with election process on 05.08.2023 to the first respondent Society without including the name of the petitioner in the voters list.

PRAYER in W.P.(MD)No.18939 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the respondents 1 & 2 vide impugned notification dated 30.06.2023 in connection with conduct of elections for the year 2023-2026 in respect of Yadhavar Kalvi Nithi and Yadhava College Execute member-s Election schedule to be conducted on 05.08.2023 and quash the same.



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28. As mentioned above, **W.P.(MD)No.16340 of 2022** was filed to delete the names of **932** persons from and out of **2874** names of persons whose names were finalized by the learned Administrator as eligible voters for the election that was scheduled to be held on **05.08.2023**.

29. This Court vide its Order dated **04.09.2023** allowed **W.P.(MD)No. 16340 of 2022** and dismissed **W.P.(MD)No.18849 of 2023** and **W.P.(MD)No. 18939 of 2023**.

30. Thereafter, **W.P.(MD)No.22737 of 2023** was filed by one Mr.A.Kandavelu for the following prayer :

***PRAYER:** Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the Hon'ble Administrator of the first respondent Society to implement the order passed by this Court in WP(MD)No.16340 of 2022, dated 04.09.2023, in letter and spirit by disqualifying the candidature of the respondents 5 to 10 as ineligible candidates and consequently, declare the next succeeded candidates as elected in the Election conducted to the first respondent Society on 05.08.2023.*

31. **W.P.(MD)No.22737 of 2023** was dismissed by this Court vide its Order dated **20.10.2023**. The Division Bench in **W.A.(MD)No.1968 of 2023** vide its order dated **15.11.2023** in appeal against the aforesaid Order dated **20.10.2023** in **W.P.(MD)No.22737 of 2023** dismissed the appeal with the



following observations:-

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“9. The order impugned in the present Writ Appeal is to implement the order passed by this Court in W.P.(MD) No.16340 of 2022 dated 04.09.2023. Therefore, this Court has to necessarily consider the relevancy of the order passed in W.P.(MD) No.16340 of 2022. When we found that those Writ Petitions itself are not entertainable under Article 226 of the Constitution of India, the question of implementing those orders by filing another Writ Petition is beyond the scope of powers of judicial review and thus, we are not inclined to entertain the present Writ Appeal.

10. The issues raised between the parties are of civil nature. Therefore, a trial natured proceedings are imminent. The parties have to approach the Civil Court for resolving the disputes between the members and the Society or otherwise. However, High Court cannot conduct a roving enquiry in respect of such issues, which requires deeper examination of evidences and especially when an allegation of forgery of membership has been raised between the parties.

11. Disputed questions of facts cannot be adjudicated in a Writ Proceedings. Civil rights are to be decided by the competent Civil Court. Thus, the earlier Writ Petitions filed and also the subsequent Writ Petition filed, seeking implementation of the order passed in W.P.(MD) No.16340 of 2022 are not entertainable and the parties are to be relegated to the civil Court of law for the purpose of redressing their grievances in the manner known to law.

12. An appointment of an Administrator by the learned Single Judge in the earlier Writ Proceedings is only for better administration and the same would provide no further cause for the purpose of instituting another Writ Petition, seeking implementation of the order passed in the earlier Writ Petition. Thus, the issues are to be adjudicated before the competent civil forum. Consequently, none of the Writ Petitions instituted to resolve the membership issues and election dispute in a Society registered under the Tamil Nadu Societies Registration Act are entertainable and beyond the scope of Article 226 of the Constitution of India. Thus, all the parties are at liberty to approach the competent Civil Court of law for the purpose of redressal of their respective grievances in the manner known to law.

13. With these observations, the Writ Appeal stands disposed of. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.”

32. As far as, the declaration of results of the elections on **09.09.2023**, is



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concerned, there is no direct challenge to the same before this court. Even if there was a challenge before this court under Article 226 of the Constitution of India, such a challenge would have to be rejected, as the aggrieved party has an alternate remedy available before a Civil Court in a Civil Proceeding and in the manner known to law as was observed by the Division Bench vide its Order dated **20.10.2023**.

33. What the petitioners in **W.P.(MD)Nos.21458 of 2023, 6473 & 6575 of 2024** and the private respondents in the respective Writ Petitions are attempting to do is to undo election held on **05.08.2023** and the declarations of the results of the election held by the Administrator on **09.09.2023**. This is legally impermissible in these collateral proceeding.

34. These petitioners are seeking to achieve what they cannot achieve directly. In this connection a reference is made to the Latin maxim "*Quando aliquid prohibetur ex directo, prohibetur et per obliquum*" which means "what cannot be done directly should not be done indirectly". In these collateral Writ petitions, these unsuccessful candidates and their nominees are challenging the declaration of result of the election dated **09.09.2023** indirectly and are fighting proxy battles on behalf of their masters.



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35. That apart, filing of **Form VII** under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978 is merely a ministerial function. In this case admittedly, the learned Administrator had directly filed the **Form VII** under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978 to the office of the District Registrar of Registration on **10.09.2023**. It has not been questioned by the District Registrar of Registration.

36. If the District Registrar of Registration has not questioned the locus of the elected body or Form VII filed under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978 by the learned Administrator directly, it remains to be explained how the 1st Respondent (Director of Collegiate Education) can question the same vide. impugned Circular dated **24.01.2024** bearing Ref Na.Ka.38148/G4/2024.

37. That apart, the 1st Respondent (Director of Collegiate Education) can only ask the “Education Agency” as defined in Section 2(4) of the Tamil Nadu Private Colleges (Regulation) Act, 1976 to file Form 6 under Rule 9(2) of the Tamil Nadu Private Colleges (Regulation) Rules 1976 where there is a change in name of the Secretary.



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38. The elected body of the Yadhava Kalvi Nidhi, a society, in this case is the “Education Agency”. In this case, the elected members of the said society as the “Education Agency” has the power to constitute the ‘College Committee’ and nominate one of its representatives as the Secretary of the “College Committee” as is contemplated under Rule 8 of the Tamil Nadu Private Colleges (Regulation), 1976.

39. Admittedly, in this case, the President of the Society viz. Yadhava Kalvi Nidhi, elected in the elections held by the Learned Administrator on 05.08.2023 vide communication dated **19.09.2023**, has filed Form 6 (along with a copy of Resolution of the Education agency approving the new Secretary) under Rule 9(2) of the Tamil Nadu Private Colleges (Regulation) Rules 1976. Thus, there is compliance by the “Education Agency” and the “College Committee” of the mandatory requirements of the Tamil Nadu Private Colleges (Regulation) Act, 1976 and the Tamil Nadu Private Colleges (Regulation) Rules 1976.

40. Further, it is not for the 1st respondent (Director of Collegiate Education) to call upon the elected body which incidentally represents the “Education Agency” to comply with the requirements of the provisions of



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the Tamil Nadu Societies Registration Act, 1975 or the Tamil Nadu Societies Registration Rules, 1978. Further, 1st respondent Directorate of Collegiate Education has to merely act on Form VII filed under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978,

41. **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978, merely contemplates filing of Notice of change of Members or Committee the Tamil Nadu Societies Registration Act, 1975 within 3 months from date of such change.

42. Ideally, such a notice of change in the name of the office bearers of the society is to accompany a copy of the Resolution of the meeting under the Tamil Nadu Societies Registration Rules, 1978, if any, affecting such change. This would be a situation where elections are held regularly as per the By-Laws of the Registered Society.

43. Under Rule 17 (1) of the Tamil Nadu Societies Registration Rules, 1978, a copy of the Register of Members maintained by the society under subsection (1) of a registered society, is not filed at the time of registration of the Society, has to be filed with the Registrar within one month from the date of the registration of the Society.



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44. Under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978, notice of change among the members of the Society or the Committee Has to be filed in Form VII within 3 months from the date of such change. Thus, if there is a change in the name of the registered members either by addition or by deletion, such change has to be intimated with the Registrar in Form VII of the Tamil Nadu Societies Registration Rules, 1978 for the purpose of Rule **17(2)** of the Tamil Nadu Societies Registration Rules, 1978.

45. Where there is a change among the name of the “Members” of the “Committee” as defined in section 2(a) of the Tamil Nadu Societies Registration Act, 1975, under Rule **17(2)** of the Tamil Nadu Societies Registration Rules, 1978, Form VII contemplated under the said Rule **17(2)** has to be accompanied with a resolution of the Meeting effecting such change. In this Case, such a resolution has been enclosed along with the Form 6 filed by the President in his communication dated 19.09.2023. The expression used in Rule **17(2)** of the Tamil Nadu Societies Registration Rules, 1978 is “if any”. This would imply a situation where a new committee takes over the old committee or the old committee is allowed to continue to officiate and manage the affairs of the society in accordance with the bylaws of the society.



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46. If elections were held in a routine manner as per the by-laws of the society, ordinarily, the newly elected body of the Society would take charge of the Society and a Resolution recording the same would be passed, which would have to accompany **Form VII** as is contemplated under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978.

47. However, we are concerned with the situation where the election was in presence of the Learned Administrator appointed by this Court. Then there is no scope for questioning of ignoring **Form VII** filed directly by the Learned Administrator under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978 with the District Registrar on **10.09.2023** in these collateral proceeding. The admitted the legal position is that filing of **Form VII** under **Rule 17(2)** of the Tamil Nadu Societies Registration Rules, 1978 is only a ministerial function. It does not matter whether it is filled by the elected body or by the Administrator, who has overseen the election.

48. The Division Bench of this Court in ***R.Muralidaran & Ors. Vs. The District Registrar & Ors. (2008) 1 MLJ 1308*** has held as under:-



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“39. Therefore, we hold that a writ would not lie against any ministerial act performed by the Registrar of Societies under the Provisions of the Tamil Nadu Societies Registration Act, including the acceptance or rejection of Form No. VII. Whenever Form No. VII is filed, the District Registrar can only call for further information/explanation and file the same along with the Form under Section 34 and he is not entitled to adjudicate any dispute. Therefore, the direction issued by the District Registrar in his order dated 30.05.2007 holding the elections held on 28.01.2007 to be invalid and directing the parties to go in for fresh election, cannot be sustained, on account of the fact that he exercised a jurisdiction not vested in him by law while accepting Form VII.

40. In view of the above, the writ appeal is allowed and the order of the learned Judge dated 12.09.2007 passed in W.P. No. 24017 of 2007 is set aside and the writ petition filed by the second respondent is dismissed. However, it is open to the appellants as well as the second respondent to approach the Civil Court with regard to the validity of the elections held either on 28.01.2007 or on 09/15.07.2007. It is further made clear that if the parties choose to approach the Civil Court, the Civil Court should deal with the matter independently on merits without reference to any order passed by the Registrar of Societies either on 28.01.2007 or on 30.05.2007, since the Registrar had no powers to go into the validity of the elections or to issue a direction to hold fresh elections. The writ appeal is allowed on the above terms.”

49. In the above case, the Division Bench followed the decision of the Full Bench of this Court in ***C.M.S Evangelical Suvi David Memorial Higher Secondary School Vs. The District Registrar and Ors. 2005 (2) CTC 161*** wherein it was held that 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.

50. Relevant paragraph from the above decision is extracted as under:-

“20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of Sub-Section (9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence the power of the Registrar to issue such direction under Sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only resort to the power under Section 37 to cancel the registration. 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. Accordingly, the issue is answered. Post the Writ Appeals for disposal accordingly.”



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51. Only if the Registrar of Society, namely the Inspector General Of Registration or the District Registrar appointed under section 6 of the Registration Act, 1908 or any other person authorised by the Government to exercise all or any of the Powers of the Registrar under the provisions of the Tamil Nadu Societies Registration Act, 1975 questions or has questioned Form VII filed by the Learned Administrator, question of the challenging the jurisdiction of the “Committee”, viz “College Committee” as defined in Rule 2 (c) of the Tamil Nadu Private Colleges (Regulation) Act, 1976 constituted by the “Educational Agency” as defined in section 2 (4) of the Tamil Nadu Private Colleges (Regulation) Act, 1976, by the 1st respondent (Director of Collegiate Education) cannot be countenanced.

52. The impugned proceedings dated **27.10.2023** bearing reference Moo.Mu.38148/G4/2023, challenged in **W.P.(MD)No.6575 of 2024** by Mr.P.Gunasekaran, issued by the 1st respondent (Director of Collegiate Education) asking the petitioner in **W.P.(MD)No.2374 of 2024** namely Mr.R.V.N.Kannan, The Secretary of the Society viz. Yadhava Kalvi Nidhi / Secretary of the Committee to file Form VII under the provisions of Tamil Nadu Societies Registration Rules, 1978 is of no significance. It is not the



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function of the 1st respondent (Director of Collegiate Education) to call upon the Secretary of the College Committee to file Form VII under the provisions of Tamil Nadu Societies Registration Rules, 1978. All that the 1st respondent (Director of Collegiate Education) can do is to call upon the Secretary of the College Committee viz. The College Committee to file Form 6 under Rule 9(2) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976.

53. Under Rule 9(1) of the aforesaid Rules, it is the duty and the prerogative of the “Educational Agency” to nominate one of its representative to act as the secretary of the “Committee” viz the “College Committee”. The “Educational Agency” can also nominate the ‘principal’ of the college as the Secretary Of the “Committee”. Rule 9(1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 reads as under :-

“9. Secretary of the committee (1) The educational agency shall nominate one of its representatives as Secretary of the committee:

Provided that it shall be open to the educational agency to nominate the Principal as Secretary of the committee.

(2) The term of office of the Secretary shall, ordinarily, be three years. However, he/she shall be eligible for re-nomination for subsequent terms. If the educational agency intends to change the Secretary within the period of three years, it shall do so only with the prior approval of the Director. Application for approval of change in the Secretaryship shall be made to the Director in Form 6.

(3) The Secretary shall function for and on behalf of the committee and educational agency.

(4) The Secretary shall act according to the resolutions passed at the meeting of the committee.



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(5) The Secretary shall not interfere in the internal administration of the college such as admission, examination, promotion of student and other academic matters as also the administration of the special fee funds, which shall be made the exclusive responsibility of the Principal.

(6) The Secretary shall be responsible for the maintenance of proper and accurate accounts and the administration of college funds except special fee funds.”

54. Once the “Educational Agency” has been validly constituted pursuant to the declaration of the results by the learned Administrator, of the elections held to the office bearers of the Society/Association namely Yadhava Kalvi Nidhi on **09.09.2023**, it is for the “Education Agency” to constitute the “College Committee” to manage the affairs of the college. This would be without prejudice to the rights of the parties to challenge the declaration of results in the manner known to law before a Civil Court.

55. It is not for the 1st respondent (Director of Collegiate Education) to question the internal affairs/decisions of the “Education Agency”. As long as, the election declared by the Learned Administrator on 9.9.2023 and the declaration in Form VII filed under rule 17 (2) of the Tamil Nadu Societies Registration Rules, 1978 by the journal administrator is not declared as invalid in the manner known to law, the continuance of Mr.R.V.N.Kannan, the petitioner in W.P.(MD)No.2374 of 2024, as the secretary of the College Committee of Yadava College, cannot be questioned.



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56. Therefore, impugned communication dated **24.01.2024** bearing reference Ref.Na.Ka.No.38148/G4/2024 impugned in **W.P.(MD)No.2374 of 2024** by vesting the powers with the 2nd respondent (Joint Director of Collegiate Education) has to be declared as without jurisdiction.

57. Therefore, **W.P.(MD)No.6575 of 2024** filed by P.G.Gunasekaran, questioning the communication of the 1st respondent (Director of Collegiate Education) in proceedings Moo.Mu.38148/G4/2023 dated **27.10.2023** is liable to be dismissed. Consequently, **W.P.(MD)No.21458 of 2023** filed by Mr.Kanan is also liable to be dismissed. Accordingly, the same is dismissed.

58. Every attempt has been made to undo the declaration of results of the election dated **09.09.2023** as invalid. If the documents are required, it is open for the petitioner in **W.P.(MD)No.21458 of 2023** to challenge the declaration of results before a civil court and suitably file appropriate application for the documents and disclosure of necessary information. Therefore, **W.P.(MD)No. 6575 of 2024** filed by P.Gunasekaran, is liable to be dismissed and is accordingly dismissed.



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59. **W.P.(MD)No.6473 of 2024** which has been filed by

Mr.L.Nandagopal Yadav is a person who is no longer a member of the Society.

He lacks *locus standi* to approach this Court for the relief. In any event, even otherwise, in the light of the decisions of the Courts mentioned above, the relief sought in **W.P.(MD)No.6473 of 2024** cannot be granted to Mr.L.Nandagopal Yadav, for the reasons stated above. Therefore, **W.P.(MD)No.6473 of 2024** filed by the petitioner, Mr. L.Nandagopal Yadav is also liable to be dismissed. Accordingly, the same is dismissed.

60. As far as the impugned order dated **24.01.2024** bearing Ref.Na.Ka.No.38148/G4/2024 of the 1st respondent (Director of Collegiate Education) in **W.P.(MD)No.2374 of 2024** is concerned, the impugned order taking away the powers of the 'Educational Agency' viz. elected members of the society which constituted the 'college committee' and nominated the petitioner, Mr.R.V.N.Kannan as the secretary cannot be sustained in the light of the above discussions.

61. That apart, the impugned order has also been passed in violation of principles of natural justice without any notice and opportunity to Mr.R.V.N.Kannan (petitioner in W.P.(MD)No.2374 of 2024). Therefore, W.P.



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(MD)No.2374 of 2024 deserves to be allowed. Accordingly, it is allowed.

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62. In the result, W.P.(MD)Nos.21458 of 2023, 6473 & 6575 of 2024 are dismissed and W.P.(MD)No.2374 of 2024 is allowed. No costs. Consequently, connected miscellaenous petitions are closed.

03.01.2025

mm/kkd/jas/mrr

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

Speaking Order / Non-Speaking Order



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To

- 1.The Registrar of Societies,
Madurai North,
Bibikulam, Madurai – 2.
- 2.The Director of Collegiate Education,
Institute of Advanced Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai – 600 015.
- 3.The Joint Director of Collegiate Education,
Madurai Region, Palam Station Road,
Madurai – 625 002,
Madurai District.
- 4.The District Registrar,
Madurai.
- 5.Shri S Rajeswaran – Administrator/Election Officer,
(Hon'ble Retired Justice)
Yadava Kalvi Nidhi/College,
Thiruppalai, Madurai – 14.



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C.SARAVANAN, J.

mm/kkd/jas/mrr

W.P.(MD)Nos.21458 of 2023,
2374, 6473 & 6575 of 2024
and W.M.P.(MD)Nos.2376, 2377,
6054, 6055, 6137 & 6138 of 2024

03 .01.2025