

W.P.(MD)No.31391 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.31391 of 2024

K.L.N.Sourashtra College of Engineering Council,
Represented by its President,
Door No.69,
South Veli Street,
Madurai - 625 001.

... Petitioner

Vs.

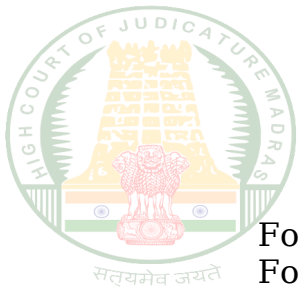
1.The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The District Registrar (Administration),
Madurai South,

3.K.S.D.Sivaprasad

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records pertaining the impugned order dated 04.09.2024 in Na.Ka.No. 7087/E1/2024 passed by the second respondent and quash the same and consequentially, directing him to take the audited accounts on file and issue necessary acknowledgment.



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For Petitioner : Mr.J.Barathan
For Respondents 1 & 2 : Mr.M.Sarangan
Government Advocate
For 3rd Respondent : Mr.V.R.Shanmuganathan

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ORDER

This Writ Petition is filed, to set aside the impugned order dated 04.09.2020, in Na.Ka.No.7087/E1/2024, passed by the second respondent and to direct the second respondent to take the audited accounts on file and issue necessary acknowledgement and pass further orders.

2.The petitioner is a society registered under the provisions of the Tamil Nadu Societies Registration Act, 1975 and its registration No.221 of 1992. Presently, the Secretary of the petitioner society has gone abroad and hence, considering the urgency with respect to the facts in issue and legal aspects raised in this Writ Petition in the absence of the Secretary, empowered by Clause 36A(3) within the category of the bylaws of the said society, the President has filed this Writ Petition for and on behalf of the petitioner society. The last election for the society was conducted on 19.03.2023 and the newly elected office bearers assumed office on 23.03.2023 and their tenure of office will be 3 years from the date of assumption of office. The third respondent is the treasurer of the aforesaid society. The audited accounts of the society were placed before the general body in the meeting conducted on



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18.08.2024 and later the returns were filed before the second respondent on 17.09.2024. There was no change in the list of members of the society or in the list of members of the committee.

3.While so, the third respondent had filed a suit in O.S.No.734 of 2024 on the file of the learned III Additional Subordinate Judge's Court, at Madurai, seeking a relief of permanent injunction restraining the Secretary and other office bearers of the aforesaid society from interfering with the lawful activities of the treasurer, which is in consonance with the bylaws during his tenure till 18.03.2023 and to restrain the Secretary and other office bearers from spending more than Rs.5,000/- without prior approval/sanction of the Managing Committee of the petitioner committee of K.L.N.Sourashtra College of Engineering Council and for other related reliefs. However, the learned civil Court did not grant any interim/temporary injunction in favour of the third respondent. The third respondent had been acting against the interest of the society all along, more particularly, in the matter of running the college and when a grant was offered by the technology translation and innovation division of the department of science and technology, Government of India, the third respondent purposely refused to approve the same. As a result of which, a grant of Rs.2 lakhs was not sanctioned to the college. So, a show cause notice dated 10.08.2024, was issued to him requiring to explain as to why he failed to sanction the aforesaid



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project. In the meanwhile, the third respondent had sent a letter dated 27.07.2024, to the President and the Secretary of the society marking copy to the second respondent, for which the President and the Secretary had replied independently by reply dated 30.07.2024, to the third respondent. The said letters were with respect to the accounts audited by the approved Auditor of the petitioner society. After being audited by the approved Auditor, the accounts were placed before the executive committee in the meeting held on 06.07.2024 and out of 11 members, 10 members excluding the third respondent had ratified the accounts. Later, the same was informed to the second respondent by letter dated 30.07.2024, that the said accounts were approved by the executive committee.

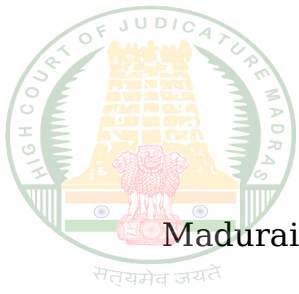
4.Following which, the accounts were placed before the general body of the society on 18.08.2024, for approval of the audited accounts of the society. After being ratified by the general body of the society, the approved accounts were filed before the second respondent seeking to take the same on file. While however, rejecting the approved accounts, the second respondent passed the impugned order dated 04.09.2024, observing that the third respondent had filed a suit in O.S.No.734 of 2024 and that he had not approved the accounts and on that basis, the same could not be taken on file. Challenging the same, this Writ Petition came to be filed.



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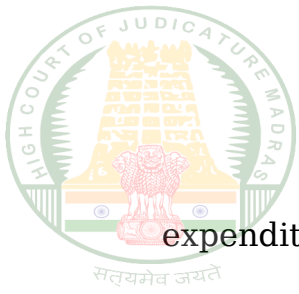
5.The learned counsel appearing for the petitioner vehemently submitted that all along the third respondent had been in a non-cooperative mode restraining and restricting the smooth functioning of the society facilitating the Management of K.L.N.Sourashtra College of Engineering Council, facilitating the development and proper administration of the college. Under the circumstances, when the college was not sanctioned with the grant of Rs.2 lakhs offered by the Technology Translation and Innovation Division, Department of Science and Technology, Government of India, due to the non-cooperation of the third respondent, who refused to approve the same, the college committee through its Secretary had issued a show cause notice dated 10.08.2024, on the third respondent, requiring to explain his attitude in not approving the progressive project, which would have augmented the development of the college. Hence, the third respondent challenging the said show cause notice dated 10.08.2024, issued by the respondents 2 to 5 had filed a civil suit in O.S.No.985 of 2024 on the file of the learned III Additional Subordinate Judge, at Madurai. Since the third respondent was not successful enough in obtaining an order of temporary injunction in the aforesaid suit, he immediately preferred a Civil Revision Petition before this Court in C.R.P.(MD)No.2576 of 2024, requiring to set aside the order dated 19.08.2024, made in I.A.No.1 of 2024 in O.S.No.985 of 2024 on the file of the learned III Additional Subordinate Judge, at



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Madurai, by merely issuing notice to the defendants therein. This Court by order dated 19.10.2024, directed the learned Trial Judge to dispose of I.A.No.1 of 2024 on merits and in accordance with law as expeditiously as possible. It was recorded in the aforesaid order by this Court that the next hearing date in the aforesaid civil case fell on 24.10.2024 and hence, the learned Trial Court will not mechanically adjourn the same and has to dispose of the same, considering the prospective of even granting an interim protection on 24.10.2024 in favor of the third respondent. Reading out the operative portion of the aforesaid order passed by this Court, the learned counsel for the petitioner submitted that it is ridiculous to understand that I.A.No.1 of 2024 in O.S.No.985 of 2024 is nothing but an emergent petition filed along with the original suit to get it numbered urgently on the same date of filing. However, the Civil Revision Petition in C.R.P.(MD)No.2576 of 2024 was filed, as if the said interim application in I.A.No.1 of 2024 had been an application for temporary injunction. Despite a positive order passed by this Court by the learned Single Bench of this Court on 19.10.2024, so far, the third respondent had not succeeded in obtaining an order of interim injunction restraining the Secretary and other office bearers of the petitioner society and initiating action against the third respondent in the light of the show cause notice issued against the third respondent.

6.No doubt, it is the treasurer, who has to maintain the receipt and



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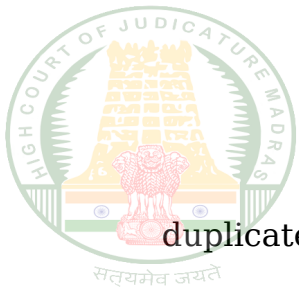
expenditure account and all the other ledgers connected with the financial transactions of the society. The third respondent was not at all prevented by any of the office bearers including the Secretary of the petitioner society from handling the accounts of the society promptly and properly and in fact, the staffs as well as the members of the society had continuously been cooperative with the third respondent to discharge his endeavor as treasurer. Despite prompt cooperation from all the office bearers of the petitioner society, the third respondent for the reasons best known to him had refused and had refrained from exercising his duty as a treasurer by properly vouching the balance sheets and all the other necessary accounts whenever the same has to be submitted for auditing for the purpose of submitting the returns before the second respondent for the proper and smooth functioning administration and running of the society and the administration of the college concerned. Only under such circumstances left with no other option, the Secretary himself had collected the accounts and placed the accounts for proper auditing before the auditor who was appointed by the general body of the society for approving the income and expenditure account, balance sheet and administration report of the society for the current audit year and thereafter, the auditor before whom the income and expenditure account balance sheet and administration report was submitted duly audited the accounts of the society and reverted the same back to the Secretary of the college. Since the third respondent wantedly refused to sign, vouch



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and endorse the same, the Secretary left with no other option placed the same before the executive committee for ratification and further submitted before the general body for ratification and on being ratified by both the bodies submitted the same before the second respondent to take the same on file. However, the third respondent with the *malafide* intention of obstructing and distorting the smooth functioning of the college as well as society had made representation in writing to the second respondent pointing out the civil suit, which is unsuccessfully filed by him as against the society and the second respondent and also putting forth the reason that the accounts were not vouched by him, required the second respondent not to take the audited account submitted before him to file. As such, the impugned order came to be passed without application of mind and without considering the fact the said order would stall the entire administration of the society as well as the college. Hence, the impugned order need to be set aside and pressed for allowing the Writ Petition.

7.Per contra the learned counsel for the third respondent relying upon Section 16 of the Tamil Nadu Societies Registration Act, 1975 and Rules 18 to 20 of the Tamil Nadu Societies Registration Rules, 1978, submitted that the treasurer of a society is the custodian of the accounts to be maintained by the society, more particularly, the cash book showing daily receipt and expenditure, receipt books containing forms in



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duplicate, vouchers file, ledger showing consolidated and separate account of all items of receipts and expenditure, monthly register of receipts and disbursements, accounts, returns and registers of the society specified in the act, etc. However, all the accounts pertaining to the council and the college, which are necessarily to be made available with third respondent in the capacity of the treasurer were never allowed to be maintained by him by the petitioner. Without admitting that, 10 out of 11 managing committee members have signed, the general body had been resolved in such a style that the resolution resolved therein were resolved unanimously. The third respondent never ratified the accounts either before the executive committee or before the general body and the accounts, which were submitted before the auditor were not at all vouched by the third respondent. The accounts which are submitted before the auditor for auditing, which were bereft of the third respondent signature are not permissible to be audited by the auditor and on that grounds alone, the impugned order came to be passed and there is no flaw in it and the same need not be interfered and pressed for dismissal of the Writ Petition.

8.Heard the learned counsel on either sides and carefully perused the materials available on record.

9.The vehement contention of the learned counsel for the third



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respondent is that the accounts, which are submitted before the auditor for auditing were not in order and the same is liable to be rejected for the various financial improprieties committed by the President and Secretary and other office bearers of the society. The third respondent has filed a civil suit in O.S.No.734 of 2024 in the file of the learned Subordinate Judge Court, at Madurai, seeking permanent injunction restraining the Secretary, President and other office bearers of the society from submitting annual report budget and accounts and submitting Form 6 and 7 to the first respondent without the signature of the third respondent and for a relief of permanent injunction restraining the Secretary, President and other office bearers of the petitioner society from interfering with the lawful activities of the third respondent as treasurer in consonance with the bylaws of the society during his tenure till 18.03.2026. However, the learned Trial Court refrained from granting any interim injunction in the aforesaid suit. The effort taken by the third respondent by filing a Civil Revision Petition which was disposed of, by directing the learned Trial Court to dispose of I.A.No.1 of 2024 as expeditiously as possible.

10.However, the learned counsel for the petitioner brought to the notice of this Court that the aforesaid I.A. is nothing but an emergent petition and the same is not an injunction application. It can be presumed that only because the said I.A. is an emergent application, the third



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respondent has not succeeded in obtaining an order of temporary injunction from the learned Trial Court. Under the circumstances, pointing out the pendency of the aforesaid suit and also claiming that financial improprieties have been committed by the Secretary, President and other office bearers of the society, the third respondent had made a complaint to the second respondent. The impugned order came to be passed only citing the pendency of O.S.No.734 of 2024 as well as the petitioner's application dated 09.08.2024.

11.No doubt, in terms of Section 16 of the Tamil Nadu Societies Registration Act, every registered society shall keep proper books of account and at the expiration of each financial year prepare a receipt and expenditure account and balance sheet and cause the same to be audited by an Auditor appointed by the registered society and thereafter submit the same before the second respondent. Unless and until the receipt and expenditure account as well as balance sheet is audited duly in terms of the provisions of the Tamil Nadu Societies Act, 1975, in consonance with the bylaws of the respective societies, the normal function/administration and state of affairs of the society would be at peril. Hence, as a treasurer, it is the bounden duty of the third respondent to cooperate in maintaining the accounts, receipts and expenditure accounts and balance sheet. That apart, the treasurer is also duty bound to cooperate with the administration of the society in every walk of administration unless any



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illegality or impropriety is explicitly identified.

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12.A careful reading of the plaint of the civil suit in O.S.No.734 of 2024 on the file of the learned Sub Court, Madurai, filed by the third respondent would make it clear that the third respondent is not able to substantiate any particular financial impropriety indulged by any of the office bearers of the petitioner society and only in such circumstances, the learned Trial Court has refrained from issuing any order of temporary injunction, restraining the petitioner society herein. The show cause notice dated 10.08.2024, issued by the society to the third respondent would also reveal that he had failed to cooperate in the matter of receipt of grant to K.L.N.Sourashtra College of Engineering Council from the Technology Translation and Innovation Division, Department of Science and Technology, Government of India. Any society could prevail only on the cooperation and mutual understanding while functioning and administrating the society by the various office bearers of the society. In the instant case, the indifferences, which has fissured out among the Secretary, President, other office bearers and the treasurer of the society figures out and is leading towards the collapse of the society. When the third respondent willfully without any valid reason refrained from vouching the accounts to be presented for auditing, the other office bearers would be left with no other option, rather submitting the same without the signature of the treasurer before the Auditor appointed by



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the general body.

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13.In view of the same, considering that the third respondent had filed a civil case, in O.S.No.734 of 2024 before the learned Sub Court, Madurai, in which, he could explicitly dig out any of the specific financial improprieties if any, as pointed out by him, I find it necessary to quash the impugned order and remand the same back to the second respondent with a precise direction to reconsider the entire matter after putting the petitioner, the Secretary, the other office bearers as well as the third respondent on notice and after giving a fair opportunity of hearing to each of them to submit their case and thereafter pass appropriate orders in accordance with law within a period of three months from the date of receipt of copy of this order.

14.Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

31.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

To

- 1.The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.
- 2.The District Registrar (Administration),
Madurai South.

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