
(2021) 08 KL CK 0080

In the High Court Of Kerala

Case No : Writ Petition (C) No. 11097 Of 2021

Kodakkat Educational And Cultural Centre

APPELLANT

Vs

District Registrar, Registration Department, District Registrar
Office, Vidya Nagar P.O, Kasaragod District, Pin-671 123

RESPONDENT

Date of Decision : 11-08-2021

Acts Referred:

Societies Registration Act, 1860 — Section 4

Citation : (2021) 08 KL CK 0080

Hon'ble Judges : T.R.Ravi, J

Bench : Single Bench

Advocate : V.N.Ramesan Nambisan, Rashmi K.M

Final Decision : Partly Allowed

Judgement

T.R.Ravi, J

1. The petitioner, a Society registered under the Societies Registration Act, 1860, has approached this Court praying for a writ of certiorari quashing

Ext.P7 and for a declaration that the respondent has exceeded his powers under Section 4 of the Societies Registration Act, 1860, while issuing

Ext.P7 order and for other consequential reliefs.

2. Heard Sri.V.N.Ramesan Nambisan, on behalf of the petitioner and Smt.Rashmi K.M., the Government Pleader on behalf of the respondent.

3. The petitioner Society was formed with the main objectives of affording a common platform for the intellectuals for their educational and social

development for starting a High School and to raise the above institution into a College level and with allied objectives. The Society has two kinds of

members, viz., life and ordinary. The Board of Directors of the Society is to be comprised of 11 members elected by the members and from among

the elected members, the President, Vice President, Secretary, Joint Secretary and Treasurer are elected. The term of the elected members is to be

for a period of three years. Ext.P1 was the Rules and Regulations of the Society at the time of its formation. Later, the General Body amended the

Rules and Regulations and Ext.P2 is the amended Regulation dated 12.3.2020. As per the amendment, the fee for ordinary membership is enhanced to

Rs.2,000/- and life membership is enhanced to Rs.10,000/-. It is also provided that for being eligible to attend the General Body Meeting, the members

have to effect payment of the differential amount towards the fee.

4. It is stated in the writ petition that the Society has 204 members. The General Body Meeting was convened on 30.4.2020 in the virtual mode since it

was not possible to convene the meeting in the physical mode owing to COVID-19 Pandemic. At the meeting, the new Board of Directors were

elected and the details of the persons elected were submitted before the respondent by the Secretary of the Society on 30.4.2020. On 2.11.2020, the

respondent wrote to the petitioner directing them to convene a General Body Meeting physically after the Pandemic situation is over and elect the

Directors of the Board for the year 2020-2021. It is stated that on the basis of the above letter, a General Body Meeting was convened on 1.4.2021

including the election of members of Board of Directors of the year 2021-2024 as one of the items in the agenda. It is further stated that out of 75

eligible members, 68 members participated in the General Body Meeting and unanimously elected the Board of Directors for the year 2021-2024. The

above facts are evidenced by Exts.P3 to P6. Exts.P5 and P6 letters containing a list of members for the Board of Directors for the year 2020-2021

and 2021-2022, sent to the respondent, were returned stating that two complaints have been received from one Kunhikannan and T.V.Raghavan and

that Raghavan has filed a criminal complaint before the JFCM Court-Hosdurg as complaint No.7/2019. The respondent has ordered that the list of

office bearers of the General Body Meeting cannot be accepted till a 'decree' is pronounced by the court. Ext.P7 is the above letter which is the

subject matter of challenge before this Court.

5. The power of the Registrar under Section 4 of the Societies Registration Act, 1860, is no longer res integra. A Division Bench of this Court in the

decision in C.M.Z.Musliar v. Aboobacker reported in 1998(1) KLT 136, has held

that the Registrar, in case of a dispute when more than one return is filed, has got the power to find out as to which one he should accept. This Court held that the enquiry need not be elaborate and the party aggrieved has to approach the competent civil court. The learned Single Judge in Narayanan K.K. and others v. District Registrar, Kasaragod and others reported in 2015(4) KLT 1028, after referring to the Division Bench decision in C.M.Z.Musliar (supra), held that once a list is placed before the Registrar pursuant to an election, the Registrar has to accept the list so long as the Registrar does not have an opinion that the election was a fraud or a farce one, in order to furnish a list. It was also held that any party who has grievance against the election, has to approach the civil court for redressal of the grievance. The above said case is also one in which the Registrar refused to accept the list on the basis of objections received. This Court held that the Registrar had exceeded in exercise of his power. The judgment of the Division Bench in C.M.Z.Musliar (supra) had been challenged before the Honourable Supreme Court and the Honourable Supreme Court in the judgment in A.P.Aboobaker Musaliar v. Distt.Registrar (G), Kozhikode and others reported in 2004(11) SCC 247, affirmed the judgment of the Division Bench. In the case on hand, there is only one list presented before the Registrar. As such, it is not a case of any disputed list. In the light of the above said judgments, the action of the respondent in rejecting the list of office bearers submitted by the petitioner cannot be sustained in law. Ext.P7 is hence quashed. The respondent is directed to accept the list submitted by the petitioner. The prayer regarding declaration of the Manager is left open since the DEO is not a party to these proceedings. After the list is accepted by the respondent, the petitioner may move the DEO for appropriate orders.

The writ petition is allowed in part as above.

All pending interlocutory applications are closed.