

(2007) 12 MAD CK 0049

In the Madras High Court

Case No : Writ Petition (MD) No's. 2652 and 4225 of 2006, 2985 and 8581 of 2007 and Cont. P. (MD) No. 227 of 2006 and M.P. No's. 1, 2 and 3/07, WPMP. No's. 2904 and 4445/06

Tirunelveli C.M.S. Evangelical Church Society

APPELLANT

Vs

District Elementary Educational Officer and Others

RESPONDENT

Date of Decision : 20-12-2007

Acts Referred:

Citation : (2007) 12 MAD CK 0049

Hon'ble Judges : M. Jeyapaul, J

Bench : Single Bench

Advocate : C. Selvaraj for S. Mani, for the Appellant; Isaac Mohanlal, for the Respondent

Judgement

M. Jeyapaul, J.—Writ Petition No. 2652 is filed by Tirunelveli C.M.S. Evangelical Church Society, Idayankulam represented by its

Secretary J. Daniel, challenging the order passed by the District Elementary Educational Officer in his proceedings in Na.Ka. No. 150/Aa2/2006

dated 15.03.2006 of 2007.

Writ Petition No. 4225 of 2006 is filed by Tirunelveli C.M.S Evangelical Church, Odaikarai, represented by its Secretary K. Isaac, challenging the

proceedings issued by the District Registrar, Cheranmahadevi, Tirunelveli District dated 05.05.2006, registering Form-VII alleged to have been

submitted by A. Daniel, the fourth respondent herein.

Writ Petition No. 2985 of 2007 is filed by Tirunelveli C.M.S. Evangelical Church Society, represented by its Secretary J.Daniel, challenging the

orders dated 25.09.2006 and 31.01.2007 approving the appointment of teachers.

Writ Petition No. 8581 of 2007 is filed by D. Maniarasi challenging the disapproval

of her appointment by the District Elementary Educational Officer, Tirunelveli District in his proceedings in Na.Ka.No. 6056/As4/2007 dated 27.08.2007.

Contempt Petition No. 227 of 2006 is filed by Tirunelveli C.M.S. Evangelical Church Society, Idayankulam represented by its Secretary J. Daniel,

seeking to punish the District Elementary Educational Officer and others for not obeying the order passed by this Court in WPMP. No. 2904 of

2006 in W.P. No. 2652 of 2006 dated 21.03.2006 and 24.04.2006.

2. The brief averment found in the Writ Petition No. 2652 of 2006 filed by the Society represented by its Secretary, J. Daniel is as follows:

(a) The petitioner Society is represented by J. Daniel who is the Secretary of the Society. There was an election to the petitioner Society and the

District Registrar by his order dated 29.11.1999 approved the Committee elected by the petitioner Society. Koil Pitchai, the father of K. Isaac

challenged the aforesaid proceedings of the District Registrar in W.P. No. 19213 of 1999. As per the proceedings of this Court in the aforesaid

writ petition, an Adhoc Committee elected by the 95 eligible members accepted by both the groups ultimately finalised 140 eligible members of the

Society as per the bye-laws. Thereafter, a writ petition in W.P. No. 2111 of 2002 was filed challenging the voters list and the same was dismissed

on 23.03.2004. The election of the petitioner Society was challenged in the civil proceedings as per the directions of this Court. The suit filed by

the said Koil Pitchai in O.S.No. 138 of 2004 on the file of District Munsif, Cheranmahadevi was ultimately dismissed on 30.12.2005. Thereafter,

the petitioner filed returns on 02.01.2006 seeking approval of the District Registrar who is the competent authority to take on file and issue

certificate.

(b) The petitioner Society represented by J. Daniel also nominated correspondents and submitted proposal for approval to the District Elementary

Educational Officer, Tirunelveli. But the latter passed the impugned order dated 15.03.2006 approving the correspondent ship of J. Balasingh and

L. Paulraj, who were not nominated by the petitioner Society. The District Elementary Educational Officer, Tirunelveli has passed the impugned

order without the approval of the District Registrar. Therefore, Tirunelveli, C.M.S. Evangelical Church Society, Idayankulam represented by its

Secretary J. Daniel seeks to quash the said impugned order dated 15.03.2006.

3. The averment in W.P. No. 4225 of 2006 filed by Tirunelveli C.M.S. Evangelical Church, Odaikarai, represented by its Secretary K.Isaac, is

virtually the counter filed by respondents 2 to 4 in W.P. No. 2652 of 2006. The brief averment found in W.P. No. 4225 of 2006 is as follows:

(a) Tirunelveli C.M.S. Evangelical Church, which is a registered Society is represented by its Secretary K.Isaac. The Society is governed by the

bye-laws. The General Body of the Society comprises of 476 members. The Managing Committee is composed of 50 members. The members of

the committee are elected by the General Body. The committee members elected among themselves the President, the Secretary, the Treasurer for

the Society and also the Correspondent for the schools under its control.

(b) The tenure of the Managing Committee is only three years. The tenure of the previous committee came to an end on 30.12.2005. The General

Body met on that date for electing the new managing Committee for the current triennium of 2006-2009. Then the General Body postponed its

meeting to 26.01.2006 and elected 50 members to form the managing Committee. The intimation regarding the formation of the Committee was

submitted to the District Registrar of Societies on 30.01.2006. The managing Committee elected the officers and appointed the correspondents for

27 schools.

(c) The District Elementary Educational Officer, Tirunelveli gave approval to the appointment of J. Balasingh and L. Paulraj nominated by the

petitioner as correspondent vide his proceedings in Na.Ka.No. 150/A2/2006 dated 15.03.2006. The District Registrar, Cheranmahadevi has

chosen to register another Form-VII alleged to have been submitted by A. Daniel, V. Eliazer and V. Geromiah. The District Registrar has

arbitrarily and illegally registered the same vide the impugned proceedings. No election was held on 30.12.2005. The registration of Form-VII

alleged to have been submitted by A. Daniel, V. Eliazer and V. Geromiah is highly arbitrary, illegal and tainted with mala fides. Hence the petitioner

in W.P. No. 4225 of 2006 seeks to quash the aforesaid impugned proceedings passed by the District Registrar, Cheranmahadevi.

4. Tirunelveli C.M.S. Evangelical Church Society, Idayankulam represented by its Secretary J. Daniel in the Writ Petition No. 2985 of 2007

challenges the order of approval passed by the District Elementary Educational Officer, Tuticorin of the appointment of correspondent, L. Paulraj

for three years from 01.03.2006, the approval of the promotion of Y. Jeba Selvi as a middle school teacher from 01.06.2006 and also the

approval of the appointment of S. Theoboral Gnanaselvam as a middle school teacher from 27.07.2006 in the vacancy created by the promotion

of Y. Sebaselvi.

5. D. Maniarasi, the petitioner in W.P. No. 8581 of 2007 who was appointed by the Managing Committee headed by K. Isaac challenges the

disapproval of her appointment by the District Elementary Educational Officer, Tirunelveli in his proceedings in Na.Ka.No. 6056/As4/2007 dated

27.08.2007 on the ground that the District Elementary Educational Officer, Tirunelveli has no authority to disapprove her appointment made by the

Correspondent V. Jermiah, C.M.S. Evangelical Schools, Alwaneri.

6. The Contempt Petition No. 227 of 2006 is filed by Tirunelveli C.M.S. Evangelical Church Society, Idayankulam represented by its Secretary J.

Daniel as against the District Elementary Educational Officer, Tirunelveli, K. Isaac, J. Balasingh and L. Paulraj alleging that one Sugirtha was

reinstated in service and one D. Pushpakala was appointed from 01.06.2006, in spite of the order of status-quo ordered to be maintained by this

Court in WPMP. No. 2904 in W.P. No. 2652 of 2006 in respect of the appointment of teaching and non teaching staff until further orders.

7. Mr. C. Selvaraj, the learned senior counsel appearing for the petitioner in W.P. No. 2652 of 2006 would submit that the petitioner in W.P. No.

4225 of 2006 has no authority to convene the General Body to elect the new managing Committee members. The petitioner in W.P. No. 4225 of

2006 has stage-managed the spurious election. The District Elementary Educational Officer has chosen to approve the appointments made by the

petitioner in W.P. No. 4225 of 2006 without verifying whether the District Registrar has approved Form-VII submitted by the petitioner in W.P.

No. 4225 of 2006. Therefore, the order passed by the District Elementary Educational Officer, Tirunelveli is liable to be quashed.

8. The learned counsel appearing for the petitioner in W.P. No. 4225 of 2006 would submit that a subscriber who pays Rs.10/- as subscription

for the last three years is entitled to become a member of the Society. The

membership has swelled to 476. The majority of the members of the General Body has elected the Managing Committee of the petitioner in W.P. No. 4225 of 2006. As the District Registrar of Societies has not responded positively for the request to approve the form-VII submitted by the petitioner in W.P. No. 4225 of 2006, a direction was issued by this Court to consider the representation made by the petitioner before the District Elementary Educational Officer who has rightly approved the appointments made by the petitioner in W.P. No. 4225 of 2006. The election conducted by the petitioner in W.P. No. 4225 of 2006 is in accordance with bye-laws of the Societies.

9. There is no dispute to the fact that an Adhoc Committee elected by 95 members as per the directions of this Court scrutinised and finalised 140

eligible members as per the bye-laws. The Managing Committee elected by the General Body continued its triennium till 30.12.2005.

10. The petitioner in W.P. No. 2652 of 2006 would contend that the election for the Managing Committee was conducted on 30.12.2005 itself

and Form-VII for registration of the change of Managing Committee was submitted to the District Registrar.

11. The petitioner in W.P. No. 4225 of 2006 would contend that the General Body was convened on 30.12.2005 and the same was deferred to

26.01.2006 and on that date the General Body elected 50 members to form a managing Committee for the triennium of 2006-2009.

12. It is contended by the said petitioner in W.P. No. 4225 of 2006 that the District Registrar before whom Form-VII was submitted had not

responded to the request emanated from the petitioner. But the District Elementary Education Officer has approved the correspondents appointed

by the said petitioner.

13. As per the bye-laws, the erstwhile managing Committee is the authority to conduct the election for the subsequent triennium. The society will

admit members who have been paying Rs.10/- as subscription during the previous three years period. The members will also have to satisfy the

other qualifications prescribed under the bye-law. Mere subscription of Rs.10/- to the society, does not ipso facto make the subscriber a member

of the society. He has to satisfy the other qualifications and become the member as per the decision of the General Body or the Managing

Committee, as the case may be.

14. The challenge as to the election of the Managing Committee consisting of the Secretary G. Daniel for the previous period ending 30.12.2005

made by Koil Pitchai who is none other than the father of K. Isaac was rejected by the competent Court. Therefore, the previous Managing

Committee consisting of the Secretary J. Daniel completed their triennium on 30.12.2005. No one else can conduct election convening the General

Body except the outgoing Managing Committee. There is nothing on record to show under what authority the General Body was convened,

election was conducted and the Managing Committee was elected by the petitioner in W.P. No. 4225 of 2006.

15. The petitioner in W.P. No. 2652 of 2006 who was the Managing Committee Member in the erstwhile Managing Committee has convened the

General Body and elected the Managing Committee for triennium of 2006-2009 on 30.12.2005. Quite surprisingly, the petitioner in W.P. No.

4225 of 2006 has come out with a version that the Society comprised of 476 members at the time of election conducted on 26.01.2006. Firstly,

he had no authority to convene the General Body meeting as he was not a part of the out-going Managing Committee. Secondly, the Adhoc

Committee elected by 95 members scrutinised and finalised 140 eligible members as per the bye-laws. The other members who have got

qualification to become the member of the society should have been admitted only by the General Body or the Managing Committee of the

petitioner in W.P. No. 2652 of 2006.

16. The petitioner in W.P. No. 2652 of 2006 would submit that no new member beyond the strength of 140 eligible members were admitted by

the outgoing Managing Committee. As already pointed out, new members can be inducted by the Society by assessing their qualifications and their

subscriptions paid as per the bye-laws only by the General Body or by the Managing Committee elected by the General Body. The petitioner in

W.P. No. 2652 of 2006 had no authority either to convene the General Body or to induct any new member beyond the recognised strength of

140 eligible members. Therefore, it is held that the election that was conducted for the Society on 30.12.2005 by the petitioner in W.P. No. 2652

of 2006 and the administrative committee members and the other office bearers

elected and the correspondents appointed by the Administrative Committee thereupon are valid as per the bye-law of the society.

17. The petitioner in W.P. No. 4225 of 2006 has simply stage-managed the election as though it was conducted on 26.01.2006, convening the General Body when he had no authority to convene the General Body at all and the alleged new members have also not been recognised either by the General Body or by the out going Managing Committee.

18. The District Registrar has rightly registered Form-VII filed by the petitioner in W.P. No. 2652 of 2006 after getting the opinion from the Government pleader. The District Registrar has properly weighed the merit of Form-VII filed by the petitioner in W.P. No. 2652 of 2006 and passed the impugned order challenged in W.P. No. 4225 of 2006. But quite unfortunately the District Elementary Educational Officer, Tirunelveli, without verifying whether the Managing Committee who appointed the correspondents were recognised by the District Registrar by registering Form-VII, has chosen to approve the correspondents appointed by the Managing committee of the petitioner in W.P. No. 4225 of 2006. The District Elementary Educational Officer has no authority to approve the correspondents appointed by the Managing Committee which was not recognised by the District Registrar based on the Form-VII submitted by the Managing Committee.

19. The arbitrary impugned order challenged in W.P. No. 2652 of 2006 has been illegally passed by the Elementary Educational Officer without applying his mind. Of course, the District Registrar should have simultaneously considered Forms-VII submitted by the petitioner in W.P. No. 2652 of 2006 and W.P. No. 4225 of 2006 and passed the impugned order challenged in W.P. No. 4225 of 2006. As it is found that he has rightly exercised his discretion in registering Form-VII submitted by the properly constituted Managing Committee under the leadership of the petitioner in W.P. No. 2652 of 2006, the Court finds that the absence of simultaneous consideration of both Forms-VII does not invalidate the seal of approval of Form-VII submitted by the petitioner in W.P. No. 2652 of 2006.

20. The District Elementary Educational Officer, Tuticorin has simply registered the appointment of L. Paulraj under his impugned proceedings dated 25.09.2006 and approved the appointment of Y. Jeba Selvi as Head Master

by his impugned proceedings dated 29.12.2006 and the appointment of S. Theoboral Gnanaselvam by his impugned proceedings dated 31.03.2007 without actually verifying whether the Managing Committee which has appointed the said correspondent was recognised by the District Registrar on submission of Form-VII. Form-VII submitted by the petitioner in W.P. NO. 2652 of 2006 alone was registered by the District Registrar. Therefore, the Managing Committee of the petitioner in W.P. No. 2652 of 2006 alone has all the authorities to appoint the correspondents and the correspondents appointed by the said Managing Committee have the power to appoint the teaching faculty. The unrecognised Managing Committee which has no leg to stand upon lacks authority to appoint L. Paulraj as a correspondent and Y. Jeba Selvi as a Head master and S. Theoboral Hnanaselvam as a teacher of the school coming under the lawful domain of the petitioner in W.P. No. 2652 of 2006. Therefore, the impugned orders challenged in W.P. No. 2985 are found not sustainable.

21. As it has already been held that the Managing Committee of the petitioner in W.P. No. 2652 of 2006 recognised by the District Registrar alone has the authority to appoint the correspondents, the correspondents so appointed by the petitioner in W.P. No. 2652 of 2006 alone can appoint teaching faculty. In view of the above, the District Elementary Educational Officer, Tirunelveli District has rightly disapproved the appointment of the petitioner, D. Maniarasi in W.P. No. 8581 of 2007 by the so-called correspondent V. Jermiah. Therefore the writ petition No. 8581 of 2007 is liable to be dismissed.

22. Coming to the contempt petition No. 227 of 2006 moved by Tirunelveli C.M.S. Evangelical Church Society, Idayankulam represented by its Secretary J. Daniel, it is found that the petitioner has not chosen to produce the order of reinstatement of the terminated teacher Sugirtha and the appointment of D.Pushpa kala by the rival Managing Committee of the petitioner in W.P. No. 4225 of 2006. Further, it is found that the Managing Committee of the petitioner in W.P. No. 4225 of 2006 which has not been recognised by the District Registrar has no authority to appoint the correspondents and the correspondents so appointed by them have no power to appoint any teacher. Therefore, any appointment or reinstatement

made by the unrecognised Managing Committee of the petitioner in W.P. No. 4225 of 2006 has no validity in the eye of law. Hence, the petitioner

in contempt petition No. 227 of 2006 is not entitled to any relief as sought for.

23. In above facts and circumstances, the impugned proceedings in Na. Ka. No. 150/Aa2/2006 dated 15.03.2006 passed by the first respondent

in W.P. No. 2652 of 2006 stand quashed and the first respondent therein is directed to approve the correspondents nominated by the petitioner

society therein as per their proposal dated 13.02.2006.

24. In view of the above, Writ Petition.Nos.2652 and W.P. No. 2985 of 2007 stand allowed. W.P. No. 4225 of 2006, W.P. No. 8581 of 2007

and Cont. P. No. 227 of 2006 stand dismissed. There is no order as to costs. Connected MP. No. 1 of 2007 and WPMP. No. 2904 of 2006 in

WP. No. 2652 of 2006 and M.P.Nos.2 and 3 of 2007 in W.P. No. 2985 of 2007 are closed. M.P. No. 1 of 2007 in W.P. No. 8581 of 2007

and WPMP. No. 4445 of 2006 in W.P. No. 4225 of 2006 are dismissed.