
(2007) 06 MAD CK 0225

In the Madras High Court

Case No : Writ Petition No. 17374 of 2005, W.P.M.P. No. 18883 of 2005 in Writ Petition No. 17374 of 2005, W.P.M.P. No. 15448 of 2006 in Writ Petition No. 15686 of 2006 and M.P. No. 1 of 2006 in Writ Petition No. 19877 of 2006

Vallivalam Desikar Polytechnic Educational Society

APPELLANT

Vs

The District Registrar (Society Registration) and Inspector
General of Registration

RESPONDENT

Date of Decision : 29-06-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Societies Registration Act, 1975 — Section 44(2), 44(4), 9, 9(1)

Citation : (2007) 4 MLJ 584

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : V. Raghavachari and G.R.M. Palaniappan, in WP. 19877/2006, for the Appellant; A. Arumugam, Additional Govt. Pleader in WP.17374/05 for R-1 in WP. 15686, 17006 and 19877/2006 and G. Thilakavathi, for R-2 in WP. 15686, 17006 and 19877/2006 and R. Gopinath in WP. 15686/2006, for the Respondent

Judgement

N. Paul Vasanthakumar, J.—All the above writ petitions are filed by Vallivalam Desikar Polytechnic Educational Society, Nagapattinam, represented by A. Appasamy, Chairman, Governing Council. In W.P. No. 17374 of 2005, petitioner seeks a direction to the first respondent to consider the explanations dated 21.11.2002, 7.1.2003, 14.3.2004 and 10.3.2005, submitted by the petitioner in response to the proceedings of the first respondent u/s 44(2) of the Tamil Nadu Societies Registration Act, before proceeding u/s 44(4) of the Tamil Nadu Societies Registration Act. In W.P. No. 15686 of 2006 petitioner seeks to quash the letter No. 34106/H2/2005 dated 26.4.2006 and consequently forbear the second respondent from in any manner dealing with the affairs and administration of the Vallivalam Desikar Polytechnic College, Nagapattinam. In W.P. No. 17006 of 2006, a declaration is sought for to declare the registration of the second respondent under the name "Vallivalam Desikar Polytechnic College

Educational and Cultural Trust, Nagapattinam", by the first respondent, as illegal, void and violative of Section 9 of the Tamil Nadu Societies Registration Act, 1975. In W.P. No. 19877 of 2006, petitioner seeks to quash the proceedings in Rc.6917/B3/05 dated 9.6.2006 and to direct the first respondent to cancel the registration of the second respondent.

2. The brief facts necessary for disposal of these writ petitions are as follows.

(a) One Sri. K.M. Desikar created an Endowment Trust by name "Vallivalam Desikar Educational Trust" on 1.3.1958 with registration No. 696/1959. The founder donated 150 acres of wet land to the Trust and declared himself to be a Trustee, who also retained the power to appoint other Trustees and declared that the income from the Trust properties should be utilised for Polytechnic and other charitable purposes. The Founder Trustee executed a Will on 24.6.1965 and registered as document No. 21 of 1965 and appointed his only daughter A. Kanagammal, wife of A. Appasamy Pillai, to be the Trustee after his life time with the power to appoint her own successor.

(b) The Trust deed does not provide a scheme for management of the institution with regard to the constitution of the Governing Council, its powers and functions through bye-laws, etc. The Grant-in-aid Code, Chapter-II, Rule 8 stipulates that sanction of grant to an institution shall be subject to satisfying the condition that the institution shall be under the management of a Governing Council, which shall not have more than 20 members and preferably 15 members including the member, who shall be an ex-officio member/secretary. One of the member shall be appointed as a Treasurer with the concurrence of the Director of Technical Education. Not more than 50% member shall be nominated by the Trust, Society, individual or group, which founded the institution. The remaining 50% shall be nominated as per Rule 9(1) of the Grant-in-aid code.

(c) The said K.M. Desikar, for managing the affairs of the Vallivalam Desikar Polytechnic, formed a Society under the Societies Registration Act, 1860, under the name and style of "Vallivalam Desikar Polytechnic Educational Society, Nagapattinam" registered on 11.8.1969 with registration No. 49 of 1969. The said Society was formed only to comply with the requirements stated in Chapter-II, Rule 8 of the Grant-in-aid Code. The said Founder Chairman of the Trust by his letter dated 16.6.1984 addressed to the Director of Technical Education, intimated the reconstitution of the Governing Council, wherein the deponent of this affidavit viz., A. Appasamy, his son-in-law was its chairman and the same was approved by the Director of Technical Education through his proceedings dated 27.9.1984, which was subsequently approved periodically by proceedings dated 19.8.1997, 24.7.2000 and the Chairman sought approval for subsequent years, that is from the year 2003, by letter dated 24.7.2003.

(d) It is the case of the petitioner that his son named Manavazhagan was appointed as member of the Governing Council as per the proceedings of the Director of Technical Education dated 19.8.1997. Since the said Manavazhagan

acted against the interest of the institution, the Governing Council removed him and consequently the removal was also approved by the Additional Director, Technical Education (Polytechnic) through his proceedings dated 27.11.2001. The said Manavazhagan being aggrieved, filed civil suit in O.S. No. 81 of 2002 before the District Munsif Court, Nagapattinam, to declare that his removal from membership is null and void and for injunction. The said suit was dismissed on 5.2.2004. The said Manavazhagan thereafter created a sham and nominal document and floated a new body under the name and style "Vallivalam Desikar Polytechnic College Educational and Cultural Trust, Nagapattinam" and registered the same under the Tamil Nadu Societies Registration Act, 1975.

(e) The daughter of the original founder viz., A.Kanagammal, wife of the said Appasamy, nominated her son Manavazhagan as a Trustee of the Educational Trust and she also removed the petitioner herein A. Appasamy from the Chairmanship of the Governing Council of the Society on 11.9.2003. The said removal is challenged by him by filing O.S. No. 149 of 2003 before the Principal Sub Judge, Nagapattinam, and the suit was transferred and numbered as O.S. No. 145 of 2004 and pending on the file of District Munsif Court, Nagapattinam. According to the petitioner, due to the pendency of the said suit, the alleged removal of the petitioner from the Chairmanship of the Governing Council of the Society has not become final.

(f) It is further stated in the affidavit that the said Manavazhagan floated a new society under the very same name and style and submitted application for registration and at his instance the Government issued Gazette notification on 10.12.2003 u/s 44(2) of the Tamil Nadu Societies Registration Act, 1975, and called upon the Society to submit its explanation within three months as to why the name of the Society bearing registration No. 49/1969 shall not be deleted from the register. In the said gazette notification, another six societies were declared as defunct as per Section 44(4) of the Tamil Nadu Societies Registration Act, 1975, stating that they have not responded to the notice u/s 44(2).

(g) On 9.1.2004, the Registrar of the Society addressed a letter to the Society based on the Gazette notification issued u/s 44(2) and called upon to submit its explanation. The petitioner Society submitted reply/explanation on 14.3.2004 to the Inspector General of Registration as well as to the District Registrar, Nagapattinam. In the said representation, petitioner pointed out that even before the expiry of three months period, the new society was registered and assigned registration No. 7/2004 on 27.1.2004.

(h) It is the case of the petitioner that the newly formed Trust used the name of the old society, except the addition of the word "cultural" and adopted same bye-laws, while registering it as a Trust. The suit filed by the petitioner, even though was dismissed for default on 27.4.2004, he filed another suit in O.S. No. 410 of 2004 for the same relief impleading the said Manavazhagan as third defendant. The daughter of the original founder Trustee viz., A.Kanagammal died on 4.10.2004 and thereafter on 18.1.2005 the said Manavazhagan sought for

approval of his Governing council.

(i) Petitioner filed W.P. No. 17374 of 2005 and prayed not to strike out the Society name. On 29.6.2004, this Court ordered to maintain status-quo. On 26.4.2006 the Director of Technical Education permitted the said Manavazhagan to continue as Chairman of the Governing Council of the Society. The said order is challenged in W.P. No. 15686 of 2006. On 9.6.2006 the District Registrar passed an order stating that pursuant to the notification issued on 10.12.2003, petitioner Society shall deemed to be dissolved and therefore the new Trust was registered on 27.1.2004 and the same is valid. The said order of the District Registrar dated 9.6.2004 is challenged in W.P. No. 19877 of 2006 and the registration of the new society is challenged in W.P. No. 17006 of 2006 with a prayer to declare the registration as illegal, void and violative of Section 9 of the Societies Registration Act. The order of the Director of Technical Education dated 26.4.2006, which is challenged in W.P. No. 15686 of 2006 is based on the registration of the new Society on 27.1.2004 and therefore the petitioner states that if the registration of the new society is held illegal as it is contrary to Section 9 of the Tamil Nadu Societies Registration Act, consequential order passed by the Director of Technical Education dated 26.4.2006 is also bound to be set aside.

3. The District Registrar, Nagapattinam, filed a counter affidavit in W.P. No. 19877 of 2006 which was adopted for other writ petitions also by the learned Additional Government Pleader at the time of arguments. In the said counter affidavit it is stated that for the purpose of administration of the Polytechnic College, Kanagammal registered a new society under the name and style "Vallivalam Desikar Polytechnic College Educational and Cultural Trust" on 27.1.2004 and the gazette notification dated 10.12.2003 was issued only u/s 44(4) of the Societies Registration Act, 1975, and only after dissolution of the original society, new Trust was registered after publication of the gazette notification and therefore the registration of the new society is valid. It is also stated in the counter affidavit that if at all the erstwhile Chairman of the Governing Council viz., A. Appasamy was having any grievance against the notification dated 10.12.2003, nothing prevented him from approaching the authority by way of submitting a suitable explanation. On the basis of the said averments the District Registrar justified the registration of the new Trust/Society u/s 9 of the Tamil Nadu Societies Registration Act, 1975.

4. The Chairman-cum-President of the Governing Council of the new Society viz., A. Manavazhagan filed a counter affidavit in W.P. No. 15686 of 2006 wherein it is stated that the Chairman of the Governing Council of the erstwhile society viz., A. Appasamy was in the administration of the Society from 1984 to 2003 and during September, 2003, on account of his inefficient administration he was relieved by the said Kanagammal by letter dated 11.9.2003 and after relieving the said Appasamy, Kanagammal came to know that proceeding u/s 44(4) of the Tamil Nadu Societies Registration Act, 1975, was issued by the District Registrar for dissolution of the Society, which was administering the Polytechnic college

and thereafter the said Kanagammal proceeded to reconstitute the Governing Council of the Society in terms of the bye-laws and made herself as Chairman and nominated other members. The tenure of the Governing Council was fixed as two years from 8.3.2004. The said Governing body was constituted as per the regulations issued by the AICTE in the year 1994. It is also stated in paragraph 11 of the counter affidavit that since by the Gazette notification dated 10.12.2003 the erstwhile society was dissolved, Kanagammal sought for registration of new Trust in the name of "M/s. Vallivalam Desikar Polytechnic College Educational and Charitable Trust, Nagapattinam", which was registered on 27.1.2004 with registration No. 7/2004 and the Polytechnic is being administered by the said Trust. It is also contended in the counter affidavit that since the said Appasamy was already removed from the Chairmanship and the same being the subject matter of the Civil suit, unless and until the same is set aside he has no right to challenge any proceeding claiming himself as Chairman and after 11.9.2003, the said Appasamy is no longer associated with the administration of the Polytechnic college.

5. The learned Counsel appearing for the petitioner argued that the original Society having not been dissolved by a valid notification by following Section 44(4) of the Tamil Nadu Societies Registration Act, 1975, no new Society/Trust under the same/similar name and style and in particular, with the same bye-laws, can be allowed to be registered and such registration is non-est in law. The learned Counsel also submitted that the said notification dated 10.12.2003 was issued only u/s 44(2) insofar as the Society with registration No. 49/1969 is concerned and the objection having been submitted within three months as per the said Gazette notification, the same is bound to be considered and if it is not found accepted, a further notification u/s 44(4) is bound to be issued and thereafter only the Society's name can be removed from the register and the said removal shall be published in the Tamil Nadu Government Gazette and thereafter only the registered society will be deemed to be dissolved. In this case, no such Gazette notification striking off the name of the registered society bearing registration No. 49/1969 is made till date and therefore the name of the Society is deemed to be in the register and therefore the registration made by the District Registrar registering the new Trust in more or less similar name on 27.1.2004 giving registration No. 7/2004 is contrary to Section 9 of the Tamil Nadu Societies Registration Act, 1975. The learned Counsel therefore submitted that the District Registrar has violated the statute while registering the newly formed Trust under the Tamil Nadu Societies Registration Act, 1975, and only due to the said registration given to the new Trust, the Director of Technical Education has chosen to approve the Chairmanship of the said Manavazhagan and once the registration is declared as invalid the order passed by the Director of Technical Education and all consequential orders will become inoperative.

6. The learned Counsel for the Chairman of the newly formed Trust contended that the petitioner in these writ petitions has no locus standi to file these writ petitions as he was removed from the post of Chairman of the Society as early as

in September 2003. Even though he has challenged his removal in the Civil suit, no order in his favour is passed in the civil suit till date. The learned Counsel further submitted that even assuming that the old society is not dissolved by following Section 44(4) of the Societies Registration Act, by mere restoration of the Society, the administration in the Polytechnic will not be changed. The learned Counsel also contended that the dispute in these writ petitions are only to the transfer of educational agency and the same cannot be challenged before this Court under Article 226 of Constitution of India.

7. The learned Additional Government Pleader on the basis of the counter affidavit filed by the District Registrar submitted that the original society became defunct by virtue of the Gazette notification dated 10.12.2003 in terms of Section 44(4) of the Act and thereafter only new Trust was registered on 27.1.2004 and therefore Section 9 of the Tamil Nadu Societies Registration Act, 1975, is not violated. The consequential orders passed by the respondents approving Manavazhagan as Chairman of the Trust is also valid in view of the registration of the Trust as early as on 27.1.2004.

8. I have considered the rival submissions made by the learned Counsel for the writ petitioner as well as respective respondents in all these writ petitions and the learned Additional Government Pleader.

9. The point in issue is whether the society bearing registration No. 49/1969 was dissolved in a manner known to law and whether the District Registrar is right in registering the newly formed Trust u/s 9 of the Tamil Nadu Societies Registration Act, 1975, on 27.1.2004 and whether the petitioner viz., A. Appasamy has got locus standi to maintain these writ petitions challenging the registration of the new Trust on the ground that the earlier Trust was dissolved and the approval granted by the Director of Technical Education.

10. The first question to be decided is, whether the writ petitions filed by A. Appasamy is maintainable and whether he has got locus standi to file these writ petitions. The said Appasamy is father of Manavazagan; husband of late Kanagammal; and son-in-law of the original founder of the Trust late K.M. Desikar. The removal of the said Appasamy by his wife Kanagammal before her death from the post of Chairman of the Governing Council has not become final and admittedly Civil suit questioning the removal is pending on the file of the District Munsif Court, Nagapattinam. If the Civil suit is ultimately decreed, Appasamy will get every right to continue the society bearing registration No. 49/1969. Therefore the said Appasamy cannot be treated as a stranger to the litigation or to the affairs of the Society or the Polytechnic and he has got locus standi to challenge the order passed by the District Registrar and also registering of the new Trust and also the consequential orders passed by the Director of Technical Education, approving Manavazhagan as Chairman of the Governing Council of the newly registered Trust. It is needless to say that even assuming that the said Appasamy has no legal right to challenge the same as of now, the illegality committed by the District Registrar having been brought to the notice of

this Court, this Court cannot be a silent spectator to allow the illegal orders to continue, which will in effect amounts to perpetuating the illegality. Hence on any account, I am of the view that these writ petitions are maintainable and this Court is entitled to see whether the Society bearing registration No. 49/1969 was dissolved in a manner known to law and whether the registration of the Trust bearing registration No. 7/2004 is valid in the eye of law.

11. Now let me consider as to whether the Society bearing registration No. 49/1969 was dissolved in a manner known to law. The undisputed facts in these cases are that the Society bearing registration No. 49/1969 was continuously administering the Polytechnic, as required under the Grant-in-Aid Code and AICTE Regulations, 1994. It is admitted by all the parties to the proceedings viz., Appasamy, Manavazhagan and the District Registrar, Nagapattinam, that the Gazette notification issued is dated 10.12.2003. The only controversy as could be seen from the arguments and averments in the affidavit and counter affidavit is that whether the said Gazette notification published on 10.12.2003 is to be treated as dissolution of the Society bearing registration No. 49/1969 or it is a notice issued u/s 44(2) of the Tamil Nadu Societies Registration Act, 1975. The procedure for removal of the defunct registered society is prescribed u/s 44 of the Act, which reads as follows,

44(2) If the Registrar either receives an answer from the registered society to the effect that it is not carrying on business or in operation, or does not within such period as may be prescribed after sending the letter receive any answer, he may publish in the Tamil Nadu Government Gazette, and send to the registered society by registered post, a notice that, at the expiration of such period as may be prescribed from the date of such publication, the name of the registered society mentioned therein will, unless cause is shown to the contrary, be struck off the register and the registered society will be dissolved.

12. From the perusal of the Gazette notification dated 10.12.2003 it could be seen that seven societies were dealt with and insofar as the societies bearing registration Nos. 69/91, 73/91, 74/91, 75/91, 76/91 and 78/91, it is clearly stated that the notification issued was u/s 44(4) of the Act 27/1975 and Section 44(2) gazette notification was issued on 15.3.2002 insofar as all those societies are concerned. Insofar as the Society bearing registration No. 49/69 with which we are concerned now, the Gazette notification was issued only u/s 44(2). In the said notification it is further stated that from the date of publication of the Gazette notification, unless sufficient explanation is received from the society within three months, the name of the society will be removed from the registered societies. Hence it is beyond doubt that insofar as Vallivalam Desigar Polytechnic Educational Society, Nagapattinam, is concerned Gazette notification is issued only u/s 44(2) of the Act and no notification as contemplated u/s 44(4) of the Act is issued. Section 44(4) of the Act reads as follows,

44(4) At the expiration of the time mentioned in the notice referred to in Sub-section (2), or Sub-section (3), the Registrar may, unless cause to the contrary is

previously shown by the registered society, strike its name off the register and shall publish notice thereof in the Tamil Nadu Government Gazette, and, on the publication of such notice, the registered society shall be deemed to be dissolved:

Provided that the liability, if any, of every officer and member of the registered society shall continue and may be enforced as if the registered society had not been dissolved.

13. It is well settled in law that when a statute prescribes to do a particular thing in a particular manner, the same shall not be done in any other manner than prescribed under the law. The said proposition is well recognised as held by the Honourable Supreme Court in the decision reported in *State of Uttar Pradesh Vs. Singhara Singh and Others*, . In paragraphs 7 and 8 of the Judgment, it is held thus,

7. In AIR 1936 253 (Privy Council) the Judicial Committee observed that the principle applied in *Taylor v. Taylor* (1876) 1 Ch.D 426 to a Court, namely, that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden, applied to judicial officers making a record u/s 164 and, therefore, held that the magistrate could not give oral evidence of the confession made to him which he had purported to record u/s 164 of the Code. It was said that otherwise all the precautions and safeguards laid down in Section 164 and 364, both of which had to be read together, would become of such trifling value as to be almost idle and that "it would be an unnatural construction to hold that any other procedure was permitted than that which is laid down with such minute particularity in the sections themselves.

8. The rule adopted in *Taylor v. Taylor* (1876) 1 Ch D 426 is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on magistrates the power to record statements or confessions, by necessary implication, prohibited a magistrate from giving oral evidence of the statements or confessions made to him.

The said proposition is also reiterated in the decision reported in *Babu Verghese and Others Vs. Bar Council of Kerala and Others*, . In paragraphs 31 and 32 of

the Judgment, the Honourable Supreme Court held thus,

31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in *Taylor v. Taylor* (1875)¹ Ch D 426 which was followed by Lord Roche in AIR 1936 253 (Privy Council) who stated as under:

(W)here a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.

32. This rule has since been approved by this Court in *Rao Shiv Bahadur Singh and Another Vs. The State of Vindhya Pradesh*, and again in *Deep Chand Vs. The State of Rajasthan*, . These cases were considered by a three-Judge Bench of this Court in *State of Uttar Pradesh Vs. Singhara Singh and Others*, and the rule laid down in AIR 1936 253 (Privy Council) was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law.

14. Coming to the case on hand, it could be seen from the counter affidavit of the District Registrar, Nagapattinam, that the notification issued on 10.12.2003 is said to have been issued u/s 44(4) of the Act. The said stand of the District Registrar, Nagapattinam, is contrary to the Gazette notification issued on 10.12.2003. As already stated, Gazette notification u/s 44(4) was issued in respect of other societies and not in respect of the society bearing registration No. 49/1969. Hence it is beyond doubt that the mandatory procedures contemplated u/s 44(4) is not complied with by the District Registrar and consequently the stand taken by the respondents in these writ petitions that the Society bearing registration No. 49/1969 got dissolved on 10.12.2003 is unsustainable. In the light of the above findings, this issue is answered against the respondents.

15. The next question to be considered is, whether the District Registrar is right in registering the newly formed Trust u/s 9 of the Act on 27.1.2004 in the absence of valid dissolution of the earlier society bearing registration No. 49/1969. While answering the first issue, I came to the conclusion that the Society bearing registration No. 49/1969 is not validly dissolved by following the statutory procedure prescribed u/s 44(4) of the Act. Since the earlier Society is not dissolved and the name of the said Society continues to be in the register of the District Registrar, the registration of the new Trust on 27.1.2004 cannot be treated as valid registration in view of the statutory bar u/s 9 of the Tamil Nadu Societies Registration Act, 1975, which reads as follows,

9. Name of Society.- (1) No society shall be registered by a name which, in the opinion of the Registrar, is undesirable.

Explanation.- For the purposes, of this Sub-section, the name of a society shall be deemed to be undesirable, if such name is-

- (a) obscene or against decency and decorum; or
- (b) Likely to promote disharmony or feelings of enmity, or hatred or ill-will between different religious, recital, language, or regional groups or castes or communities; or
- (c) identical with, or so nearly resembles, the name by which a society in existence has been previously registered.

It is not in dispute that the new Trust adopts the very same bye-laws of the existing society bearing registration No. 49/1969 and the name of the new Trust is also identical and nearly resembles the name of the existing society. The said fact is admitted by the contesting respondents and only justification made by the contesting respondents is that the earlier society having been dissolved by the Gazette notification dated 10.12.2003, there is no impediment to register the new Trust on 27.1.2004 though the name of the Trust is somewhat identical and nearly resembles the name of the previously registered society. In view of the said statutory bar contained in Section 9(1)(c) of the act, registration of the new society by the District Registrar is held illegal.

16. The next question to be decided is whether the approval of Manavazhagan, who is Chairman of the Trust approved by the Director of Technical Education, can be treated as valid approval in the light of the illegality in registering the Trust by the District Registrar, without dissolving the earlier society in a manner known to law.

17. It is not in dispute that for administering an aided Polytechnic, there must be a registered society, which have a Governing Council. Once registration of the Trust is found illegal, the approval given by the Director of Technical Education based on the said registration also cannot be treated as valid. However, admittedly the earlier chairman of the society viz., A. Appasamy was removed from the Chairmanship on 11.9.2003 and he filed civil suit in O.S. No. 149 of 2003 before the Principal Sub Court, Nagapattinam, which was transferred and renumbered as O.S. No. 145 of 2004 and pending on the file of District Munsif Court, Nagapattinam. Therefore the said A. Appasamy cannot continue as Chairman of the Governing Council after removal unless and until the said removal is set aside or declared invalid in the civil suit filed by him. As already stated the Polytechnic being an aided polytechnic, it has to conduct its day to day affairs without any hindrance. Hence the said Manavazhagan is permitted to function as interim Administrator till the matter is resolved by the District Registrar in registering the Trust or till the disposal of the suit, whichever is earlier.

18. In view of the above findings, following are my conclusions:

- (a) The stand of the District Registrar and Manavazhagan that "Vallivalam Desigar Polytechnic Educational Society, Nagapattinam" bearing registration No. 49/1969 is dissolved by Gazette Notification dated 10.12.2003 is not sustainable,

as no Gazette notification as prescribed u/s 44(4) of the Tamil Nadu Societies Registration Act, 1975, was issued.

(b) The registration of the "Vallivalam Desikar Polytechnic College Educational and Cultural Trust, Nagapattinam" under registration No. 7/2004 is in violation of Section 9 of the Tamil Nadu Societies Registration Act, 1975, in view of non-dissolution of the earlier society bearing registration No. 49/1969, which has identical name or the name nearly resembles.

(c) The order passed by the Director of Technical Education, approving the Chairmanship of Manavazhagan to the Governing Council of "Vallivalam Desikar Polytechnic College Educational and Cultural Trust, Nagapattinam" on the basis of registration on 27.1.2004 by the District Registrar is unsustainable.

(d) Since the issue involved is administration of an aided Polytechnic, for the day-to-day administration, the said Manavazhagan is permitted to administer the Polytechnic subject to the result of the suit filed by Appasamy, pending as O.S. No. 145 of 2004 on the file of District Munsif Court, Nagapattinam or till the registration of the new Trust according to law, whichever is earlier.

(e) It is further made clear that the order passed in these writ petitions will not preclude the District Registrar from taking appropriate further proceeding against the Society bearing registration No. 49/1969 based on the Gazette notification dated 10.12.2003 and while taking further action the representations submitted by the said A. Appasamy till 11.9.2003 shall be considered as he was the Chairman of the Governing Council till the said date.

(f) It is open to the District Registrar to consider registration of "Vallivalam Desikar Polytechnic College Educational and Cultural Trust, Nagapattinam" in accordance with law and on such registration, it is open to the Director of Technical Education to pass further orders on merits approving the Governing Council.

19. In the result, W.P. Nos. 17006 and 19877 of 2006 are allowed and W.P. Nos. 17374 of 2005 and 15686 of 2006 are partly allowed in the above terms. No costs.