

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)



TUESDAY, THE TWELFTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION NO: 23395 OF 2023

Between:

Ananthapur District National Educationa Trust, Rep. by its President Sri P.V. Ramana Reddy, S/o. Late Obula Reddy, Aged about 79 years, Opp. ZP Office, Government Hospital Road, Anantapur - 515 001, State of Andhra Pradesh.

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Dept. of Stamps and Registrations, Velagapudi, Amaravati, Andhra Pradesh.
2. The Inspector General, Department of Stamps & Registrations, D.No.5-59, R K Spring Valley Apartments, Vijayawada HO, Vijayawada - 520001, Near Kankipadu Mandal, Andhra Pradesh.
3. The District Registrar of Society (Assurances), Dept. of Stamps and Registrations, Anantapur, Andhra Pradesh.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ or direction more particularly one in the nature of **WRIT OF MANDAMUS** declaring the action of the 3rd Respondent in issuing C.No.956/G/Society/2021, dt. 15.09.2022 directing the Trust to comply with the conditions laid down under Section 9 and Section 20 of A.P. Societies Registration Act, 2001 and the Circular Instructions issued in Memo No.12/Ca&IG(R&S), AP/Peshi, dt. 01.10.2010 by not receiving list of Governing Council Members elected for the years 2020-2021, 2021-2022 along with the General Body Meeting Resolutions held on 11.08.2019 and subsequent Governing Council Meeting proceedings dated 06.12.2020 and 21.07.2021, as arbitrary, illegal, without power and contrary to the provisions of the Societies Registration Act, 2001 and consequently direct the 3rd Respondent to receive and acknowledge/upload the above said documents.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 3rd respondent to receive list of Governing Council Members elected for the years 2020-2021, 2021-2022 2019-2022 & 2022-2025 along with the respective General Body Meeting Resolutions held on 11.08.2019 and 16-10-2022 and all the subsequent Governing Council Meeting proceedings dated 06.12.2020 and 21.07.2021 and acknowledge the same, pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI. T. NAGARJUNA REDDY

Counsel for the Respondents: ASST.GP FOR STAMPS ®ISTRATION

The Court made the following: ORDER

IN THE HIGH COURT OF ANDHRA PRADESH::AMARAVATI

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No.23395 of 2023

Between:-

Anantapur District National Education Trust

.... Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Dept. of Stamps and
Registrations & 2 others.

.... Respondents

Counsel for the Petitioner : Mr.T. Nagarjuna Reddy

Counsel for the Respondents : Learned Government Pleader
for Stamps & Registration

ORDER:

This Writ Petition is filed *inter alia* questioning the power and jurisdiction of the 3rd respondent in issuing the impugned letter, dated 15.09.2020, whereby the petitioner trust was directed to comply with the conditions laid down under Sections 9 and 20 of A.P. Societies Registration Act, 2009 (for short "the Act") and the Circular instructions of the 2nd respondent dated 01.10.2010.

2) The learned counsel for the petitioner submits that the petitioner society was registered on 05.06.1945 under

the Societies Registration Act, 1860 with an object to establish schools and colleges, which shall be opened to students of every community within Anantapur District. Referring to the averments in para 4 of the affidavit filed in support of the writ petition, learned counsel submits that due to Covid-19 pandemic, the resolutions passed in respect of election to the New Governing Council Members of the petitioner trust was not furnished to the 3rd respondent. However, on 18.08.2022, the resolutions in respect of elections of Governing Council Members for the years 2020-2021 and 2021-2022, the minutes of the meetings etc., were submitted before the 3rd respondent for issuance of the Certificate, which is required to be submitted before the Government. He submits that to the petitioner's utter surprise, the 3rd respondent issued a letter dated 15.09.2022, impugned in the present Writ Petition calling upon the petitioner to file annual reports for the years 2020-2021, 2021-2022 and 2022-2023. He submits that the action of the 3rd respondent in not acknowledging the resolutions submitted by the petitioner and issuing a certificate as requested is arbitrary, illegal, etc., apart from

contrary to the provisions of the Act. He also submits that in the light of the decision of the learned Judge of this Court, dated 24.12.2021, in **Kasturidevi Vidyalayam Committee v. State of A.P.**,¹ (W.P.No.24656 of 2020), the present Writ Petition deserves to be allowed.

- 3) Learned Assistant Government Pleader for Stamps and Registration on the other hand while seeking time for filing counter, however, has not disputed the orders on which reliance is placed by the learned counsel for the petitioner.
- 4) This Court having considered the submissions made, more particularly, in the light of the orders, dated 24.12.2021, is inclined to dispose of the Writ Petition.
- 5) In W.P.No.24656 of 2020 and batch, the learned Judge was dealing with the matter where the stamps and registration authority refused to receive annual lists containing the names and addresses of the members of the Managing Committee and officers entrusted with the affairs of the society. After referring to the provisions of the Act extensively and the Circular instructions, dated 01.11.2010,

¹ 2021 SCC OnLine AP 4008

which were relied on by the respondent authorities therein, the learned Judge categorically held that by issuing Circulars / instructions etc., the powers and role of the Registrar cannot be increased / expanded and that the same are clearly contrary to the statutory provisions. In the operative portion of the order which is extracted hereunder for ready reference, the learned Judge held as follows:-

“41. Therefore, for all these reasons and as per the existing law (2001 Act), this Court holds that the Registrar is bound to receive and file the annual list of members that are filed by the society. He has to keep them on his record. He cannot either accept or reject the same. Such a power of adjudication is not conferred on the Registrar. As per the Division Bench judgment reported in *Mokkapati Chandra Sekhara Rao v. Pragathi Educational Society, Guntur District*² by the combined high Court of State of A.P., the Registrar can only receive and keep the lists on his file. Any member or person dissatisfied with the same has to seek legal recourse only. But the Registrar cannot for any reason enter into enquiries or decide on the validity etc., of the list. He cannot look into issues like quorum of the meeting etc. Even on issues like forgery of signatures etc., or mismatch of signatures etc., the Courts themselves are very circumspect in taking a decision on these issues and often look for expert evidence on such matters. The Registrar in the opinion of this Court cannot also enter into these areas of enquiry as he does not have either the legal competence or the expertise to decide on matters of differences in signatures etc.”

- 6) Further, another learned Judge of this Court while concurring with the interpretation of Section 9 of the Act in

Panguluri Srinivasa Rao v State of Andhra Pradesh²

vide Order dated 17.10.2022 in W.P.No.13386 of 2019 *inter alia* held as follows:

“14. In the light of this interpretation, it is clear that any list produced by persons claiming to represent the society would have to be kept on file by the Registrar of Societies. However, mere acceptance of such lists does not in any manner mean that the Registrar is certifying or legitimizing such lists. The provision by its very nature makes it amply clear that what is required by the Society is the furnishing of a list of elected members. This requirement would not extend to mean that production of such lists before the Registrar would automatically amount to a certification of such a list as genuine or that furnishing of such lists would automatically amount to recognition of the persons mentioned in the list as members of the Managing Committee.

15. In the event of any dispute as to the status of the persons mentioned in such lists, the only option available for resolution of such a dispute is to approach the District Judge under Section 23 of the Act, 2001.”

- 7) In view of the above stated legal position, this Court finds merit in the submissions made by the learned counsel for the petitioner and the same are therefore upheld. Consequently, the action of the 3rd respondent in issuing letter, dated 15.09.2022, is declared as illegal and without

² 2017 (5) ALT 434

power or authority. Further, the 3rd respondent is directed to receive the list of Governing Council Members for the year 2020-2021, 2021-2022 along with the General Body Meetings / Resolutions held on 11.08.2019, 06.12.2020 and 21.07.2021 and acknowledge the receipt of the same, within a period of two (02) weeks from the date of receipt of a copy of this Order. It is needless to clarify that the acknowledgment as issued by the 3rd respondent would not, in any manner, amount to certifying or legitimizing such list, nor the same would automatically amount to recognition of the persons mentioned in the said list as "Members" of the Managing Committee/Governing Body.

- 8) This Writ Petition is allowed, with the directions indicated above. No order as to costs.
- 9) Consequently, Miscellaneous Applications pending, if any, shall also stand dismissed.

**Sd/- S.SRINIVASA PRASAD
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Dept. of Stamps and Registrations, State of Andhra Pradesh Velagapudi, Amaravati, Andhra Pradesh.
2. The Inspector General, Department of Stamps & Registrations, D.No.5-59, R K Spring Valley Apartments, Vijayawada HO, Vijayawada - 520001, Near Kankipadu Mandal, Andhra Pradesh.
3. The District Registrar of Society (Assurances), Dept. of Stamps & Registrations, Anantapur, Andhra Pradesh.
4. One CC to Sri. T. Nagarjuna Reddy, Advocate [OPUC]
5. Two CCs to GP for Stamp & Registration, High Court of Andhra Pradesh. [OUT]
6. Three CD Copies.

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Pujita

HIGH COURT

DATED:12/09/2023

ORDER

WP.No.23395 of 2023

9 copies
TP
17/11/2023

**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

