



W.M.P(MD)No.18242 of 2022

and

W.M.P(MD)No.18507 of 2022

in

W.P(MD)No.24134 of 2022

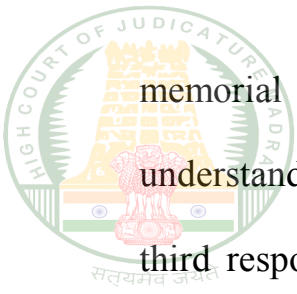
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V.BHAVANI SUBBAROYAN, J.

The petitioner has filed the present writ petition seeking for a writ of mandamus directing the respondents to permit the operation of the joint account AIADMK & Pasumpon Thevar Ninaivalayam bearing account No. 826310110012801 with madurai Anna Nagar Branch of Bank of India as agreed by the first respondent in the letter dated 27.09.2022 and also filed interim application seeking direction to direct the first respondent to hand over the lawful possession of the 13 kg golden armour till 01.11.2022 lying in the locker of the first respondent bearing joint account “AIADMK & pasumpon Thevar Ninaivalayam” bearing account No.826310110012801 for the upcoming Thevar Jayanthi Celebrations 2022 to the petitioner and the third respondent pending disposal of this writ petition.

2. The first respondent in the impleading petition and the petitioner in the writ petition submitted that in the year 2014 the then Chief Minister and General Secretary of the petitioner party Puratchi Thalaivi Dr.J.Jayalalithaa, on behalf of the petitioner party had presented a 13 kg gold armour to be decorated on the statute of the famed freedom fighter Pasumpon Muthuramalinga Thevar during the Guru Pooja Celebrations of his birth anniversary. The said anniversary is celebrated on a grand scale at his birth place Pasumpon between 27th and 30th October every year.

The third respondent is the Trust which manages the memorial of Pasumpon Muthuramalinga Thevar and as such since the gold armour would be kept at the



memorial for three days the joint account was opened and memorandum of understanding dated 3rd May 2014 was entered into between the petitioner and the third respondent for the use of gold armour and safe upkeep of the same in the locker. Since in the year 2014 the petitioner party has the responsibility of taking out the 13 kg gold armour from the locker attached to the joint account AIADMK and Pasumpon Thevar Ninaivalayam bearing A/c No.826310110012801 on 25th October every year, and the bust of Thiru Pasumpon Muthuramalinga Thevar would be adorned with the said gold armour. In this regard, the petitioner submits that every year in the months of September and October the petitioner party makes all arrangements to take the gold armour from the locker and deposit the same back into the locker upon the conclusion of the birth anniversary of Thiru.Muthuramalinga Thevar by 1st November every year. Since the respondents have failed to act as per law and have refused to permit the petitioner's party and the third respondent to operate the joint account AIADMK and Pasumpon Thevar Ninaivalayam bearing A/c.No.826310110012801 to take the 13 kg gold armour for this year Thevar Jayanthi to be celebrated from 27th to 30th October 2022, hence, the petitioner has filed the present writ petition.

3. The learned counsel appearing for the second respondent/Branch Manager in the impleading petition would submit that they would abide by the orders of this Court. The learned counsel appearing for the fourth respondent, namely, Pasumpon Thevar Ninaivalayam, rep. by its caretaker Tmt.T.Gandhimeenal in the impleading petition would submit that they are willing to abide by the orders being passed by this Court and further submitted that the gold armour to be placed for celebrating

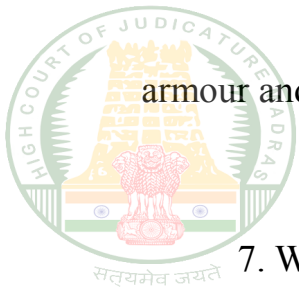


the birth anniversary of Pasumpon Muthuramalinga Thevar.

4. At this juncture, Mr.K.Chellapandian, learned Senior Counsel assisted by Mrs.P.Rajalakshmi learned counsel appearing for the impleading petitioner would submit that the petitioner wants to implead as a party respondent in the main writ petition and filed the same and taken up for hearing on 26.10.2022.

5. W.M.P(MD)No.18507 of 2022 has been filed to implead the petitioner as 4th respondent in the main writ petition.

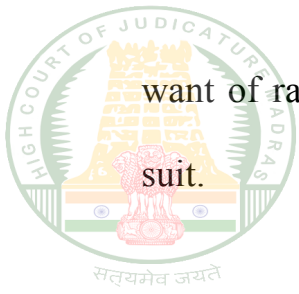
6. The learned Senior Counsel appearing for the impleading petitioner would submit that in the year 2014, the then Chief Minister and General Secretary of the petitioner party Puratchi Thalaivi Dr.J.Jayalalitha, on behalf of All India Anna Dravida Munnetra Kazhagam had presented a 13 kg gold armour to be decorated on the statute of the famed freedom fighter Pasumpon Muthuramalinga Thevar during the Guru Pooja celebrations of his birth anniversary, which is celebrated in a grand manner at his birth place Pasumpon between 27th and 30th October of every year. The said 13 kg gold armour is safely placed in the locker operated under the joint account "AIADMK" and Pasumpon Thevar Ninaivalayam bearing account No. 826310110012801 in the second respondent bank. The fourth respondent is the Trust which manages the memorial of Pasumpon Muthuramalinga Thevar and as such since the Gold armour would be kept at the memorial for three days, the joint account was opened and a memorandum of understanding dated 3rd May 2014 was entered into between the petitioner and the third respondent for the use of the gold



armour and safe custody of the same in the locker.

7. When the matter stood thus, every year the same has been operated by both party and after the death of the then Chief Minister Dr.J.Jeyalalitha, the same was operated by the Co-Ordinator and Treasurer of the party. The petitioner is the treasurer of the All India Anna Dravida Munnetra Kazhagam since 2007 and is entrusted to jointly operate the A/c No.801220110000521 along with the Custodian Pasumbon Thevar Ninaivalayam from 2014 onwards. In furtherance to the operation of the account, he has made periodical communications to the bank viz., the second respondent herein with regard to the various cases pending before this Court and Hon'ble Supreme Court. However, the bank has made a communication dated 07.10.2022 stating that he need to obtain a Court order regarding operation of the captioned account specifically to enable the bank to proceed suitably.

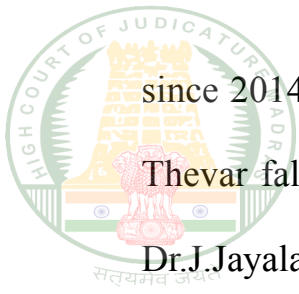
8. He would further submit that the General Council Meeting held on 23.06.2022 was called by both Co-Ordinator and joint Co-Ordinator in accordance with the bylaws of the party whereas the General Council Meeting held on 11.07.2022 is illegally called in violation of the bylaws of the party. Hence, he challenged the said notice and sought for interim injunction restraining them from conducting the meeting. The said application was ordered in his favour by the learned Single Judge on 17.08.2022 in O.A.Nos.368,370 and 379 of 2022. But the same was reversed by the Division Bench of the Madras High Court stating that “In these circumstances we are not giving any findings with regard to the stand taken by the appellant that the post of Co-ordinator and joint Co-ordinator had lapsed for



want of ratification on 23.06.2022. The said issue can be decided in the pe
suit.

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9. He would further submit that in view of the above observation it is made clear that the said post of Co-ordinator and Joint Co-ordinator remains unaltered and he still continue to the Co-ordinator of the All India Anna Dravida Munnetra Kazhagam. At the same time, the post of Interim General Secretary created by way of passing a resolution on 11.07.2022 is not confirmed either by any court of law or by the Election Commission of India. The said decision of the Division Bench was taken to Supreme Court by way of Special Leave Petition and the same was came up for hearing on 30.09.2022 upon hearing both the sides the learned counsel for Thiru.Edappadi K.Palanisamy gave an undertaking that till the present matters are heard there shall not be any election for the post of General Secretary and the statement was recorded and directed the respondent accordingly, the Supreme Court also issued notice to all the parties for completion of pleadings and posted the matter for further hearing on 21.11.2022. As per the records of the Election Commission of India also reflect his name as Co-ordinate and Treasurer of All India Anna Dravida Munnetra Kazhagam and also the resolutions passed on 11.07.2022 was not taken on record by any authority concerned. Hence, appointment made by the Interim General Secretary Mr.Edappadi K.Palanisamy appointing Mr.Dindigul Sri Sreenivasan the writ petitioner as treasurer of the party is illegal. As per the other records of the Election Commission of India it clearly reflects him as Co-ordinator and the treasurer of the AIADMK and being permitted to operate the above said account along with the custodian of Pasumpon Thevar Ninaivalayam



since 2014. The petitioner submits that the birthday of Pasumpon Muthuram:

Thevar falls on 30.10.2022. The gold armour donated by the then Chief Minister

Dr.J.Jayalalitha will be adorned to Pasumpon Muthuramalinga Thevar statue at his

memorial in Pasumpon Ramanathapuram District from 28.10.2022 to 30.10.2022.

Hence, as a treasurer it will be appropriate to hand over the gold armour containing

13 kgs, to him along with the custodian of Pasumpon Thevar Ninaivalayam based

on the records maintained by the Election Commission of India. In view of the

reasons stated above as per the order of the Hon'ble Apex Court and as per the

Election Commission of India he is holding the post as the Coordinator and

treasurer of the AIADMK. He would further submit that in the earlier occasion,

based on his representation sent to the authorities concerned as the matter stood

thus in the year 2017, when there was some dispute arose, the same was handed

over to the District Collector and he has taken the same and after adorned returned

the same to the bank and the same order may be passed for this year also.

10. Learned Senior Counsel Mr.Vijay Narayanan appearing for the writ

petitioner submitted that the petitioner's political party is an association of persons

and all its members are bound by its rules and regulations framed and amended

from time to time. The petitioner's political party amended its rules and regulations

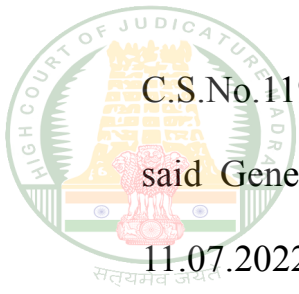
recently on 11.07.2022 during its General Council Meeting, wherein, he was elected

as the Treasurer of the party and the then Treasurer Thiru O.Panneerselvam were

expelled from the primary membership of the party and removed from all the posts.

Prior to the convening of the said meeting, Thiru.O.Panneerselvam and another

supporter had filed O.A.Nos.367, 368 and 370 of 2022 in C.S.No.118 of 2022 and



C.S.No.119 of 2022 seeking for a temporary injunction against the conduct

said General Council Meeting on 11.07.2022. This Court vide its order dated

11.07.2022 dismissed the Original Applications at 9:00 A.M., and hence, the

General Council meeting proceeded to be held on the said day based on the orders

of the courts. Thereafter, the Revenue authorities locked and sealed the party

headquarters under proceedings initiated under Section 145 and 146 of Cr.P.C and

hence, the petitioner filed the CrI.O.P.Nos.16343 and 16695 of 2022 challenging the

orders of the Revenue authorities and this Court directed the authorities to hand

over possession of the Party Headquarters to the petitioner vide its order dated

21.07.2022. The said order of this Court was challenged by Thiru O.Pannerselvam

before the Hon'ble Supreme Court by way of Special Leave Petition in SLP

(Criminal) Nos. 7119-7121 of 2022. The Hon'ble Supreme Court was pleased to

dismiss the SLPs vide its order dated 12.09.2022 and confirmed the order of this

Hon'ble Court thereby confirming the handing of the possession of the party

Headquarters to the petitioner.

11. Meanwhile, Thiru O.Pannerselvam had challenged the order of this Court

in O.A.Nos.367, 368 and 370 of 2022 dated 11.07.2022 before the Hon'ble Supreme

Court and the Hon'ble Supreme Court vide its order dated 29.07.2022 in S.L.P.Nos.

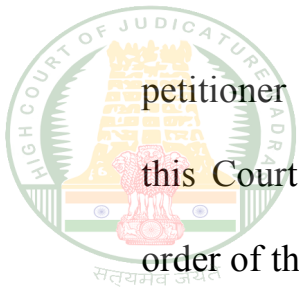
12782, 12784-12785 of 2022 remitted the matter to this court for re-consideration

directed the parties to maintain the status quo as on 29.07.2022. However, when the

matter was remanded, the learned judge of this Court re-heard the O.A.Nos.368,

270, 379 of 2022 and allowed the same by ordering status quo ante as on

23.06.2022, vide an order dated 17.08.2022. Challenging the said order, the

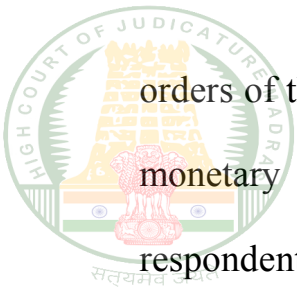


petitioner filed O.S.A.Nos.227,231 and 232 of 2022 before the Division Bench

this Court and the Division Bench has allowed all the appeals and set aside the order of the learned Judge vide order dated 02.09.2022.

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12. Based on the order of this Court on 20.07.2022, the physical possession of the party headquarters was handed over to the petitioner and the office bearers who were in support of him on 22.07.2022 and the lock and seal was opened by the authorities. He submit that the petitioner is an accused in the case registered for robbing their headquarters and the documents robbed includes the original receipt for the safety locker in question. If the petitioner has all the rights that he claims it is only puzzling as to why the petitioner would stoop to the level of organising the mob to take away the originals. In fact, the Hon'ble Madras High Court has termed the act of the petitioner, illegally breaking open the headquarters as nothing but trespass. The Hon'ble High Court had directed the statutory authorities to handover the possession of the headquarters to the Interim General Secretary of the party. This order of the Hon'ble High Court has been confirmed by the Hon'ble Supreme Court. it is outrageous that an expelled person with no access to even the headquarters of the party would claim right to the operation of a locker of that very party and the receipt which he is accused of stealing. The above fact was also communicated to several other banks in which the first respondent is operating its bank accounts and as a result I have been able to operate the said accounts as the newly appointed treasurer of the first respondent party. Only in respect of the joint account with the second respondent bank herein, the first respondent is unable to operate its bank account since the second respondent bank is insisting upon the



orders of the court, which is completely baseless. He would submit that there monetary transaction involved in the joint account opened with the fourth respondent and the same is purely for the purpose of placing the 13 kg gold armour in a safe locker. On the other hand, it is pertinent to note that he has been permitted to operate other bank accounts where all the monetary transactions in relation to the party are undertaken.

13. He would further submit that the fourth respondent is not permitting the first respondent to operate the account only due to the unnecessary and misleading confusions caused by the petitioner herein. He would submit that such a confusion was created deliberately by the petitioner herein who sent a legal notice dated 07.10.2022 to the second respondent completely misinterpreting the orders of this Court and the Hon'ble Supreme Court and misled the second respondent into believing that there are certain disputes that are pending and hence the bank refused to permit him to operate the bank account.

14. He further submitted that at the relevant point of time the Treasurer of the first respondent party was the petitioner herein and hence, he had signed the MoU in the said capacity, representing the first respondent party. It is not as though the petitioner had signed the said MoU in his personal capacity. He advised to submit that the merely by affixing a signature in the capacity of a treasurer will not grant any right to the petitioner to claim under the said MoU, which is purely between the first respondent party and the fourth respondent trust herein. The petitioner relief on various clauses in the said bylaws, wherein as per Section 29A(9) of the

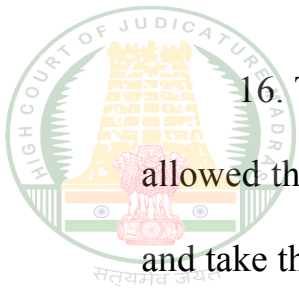


Representation of People's Act 1951, whenever there is a change in the bearers or any other material matters, the same shall be communicated to the Commission without any delay. The relevant portion reads as follows:-

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(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay”.

15. The observation of the Hon'ble Division Bench were made in O.S.A.Nos. 227, 231 and 232 of 2022 since the issue pertained to whether the General Council Meeting dated 11.07.2022 was legally convened or not, and the Hon'ble Division Bench examined the requisition, notice and the invitation in relation to the said General Council Meeting and proceeded to hold that the meeting was validly held. Since the Hon'ble Division Bench felt that there was no necessity to go into the validity of the lapse of posts at this stage, the Division Bench did not give any finding on the lapse of the posts. The petitioner cannot misinterpret to contend that the meeting itself was illegally called and that the petitioner continues to remain the co-ordinator of the party. He would further submit that as already a Meeting was held on 11.07.2022 and the present Interim General Secretary has been appointed and hence, the submission of the impleading petitioner has to be rejected as already the post which has been held by the impleading petitioner was lapsed and they have passed the resolution to the said fact in the General Council Meeting on 11.07.2022.



16. The Hon'ble Division Bench in O.S.A.Nos.227, 231 and 232 of 2022

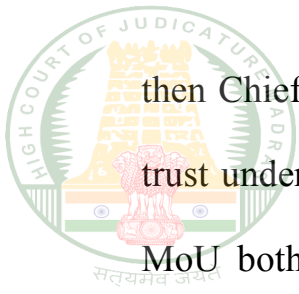
allowed the claim of the writ petition and they have the right to operate the account and take the gold armour out to adorned in statue of Muthuramalinga Thevar.

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17. In the order it has opined that his post along with the post of co-ordinator had lapsed, as already stated, he cannot be compelled to continue in the said post. That apart, the first respondent (in O.S.A.No.227 of 2022) alone cannot take any decision independently. In these circumstances, we are not giving any finding with regard to the stand taken by the appellant that the posts of co-ordinator and joint co-ordinator had lapsed for want of ratification on 23.06.2022. The said issue can be decided in the pending suit. The matter was on appeal before Hon'ble Supreme Court in SLP (Criminal) Nos.7119-7121 of 2022 and the Hon'ble Supreme Court has not passed any interim order and the challenge is still pending for consideration and that the orders in OSA challenged has not attained finality.

18. After hearing the parties concerned, this Court being satisfied with the reasons stated in the impleading petition, permission is granted to be impleaded and the impleading petition in W.M.P(MD)No.18507 of 2022 is allowed.

19. Having regard to the contentions made by writ petitioner A party in his prayer and the objection raised by the impleading petitioner B party and on perusal of the deed of MoU between AIADMK party represented by the then treasurer of B party and the third respondent/ fourth respondent wherein it has been incorporated that during Thevar Guru Pooja the gold armour (Kavasam) that was donated by the



then Chief Minister and General Secretary of AIADMK party before faction

trust under the deposit and custody of first respondent Bank. As per the clause in

MoU both the trusurer and the third respondent would operate the account and

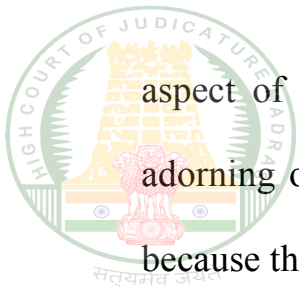
receive gold armour from the Bank together to be adorned during the ceremony.

20. It is categorically clear that the above clause as mentioned in MoU the AIADMK party shall co-ordinate the trust to take Kavasam from the bank and placed on the statue during ceremony to be held on 28th to 30th October on celebrating the Birth of Muthuramalinga Thevar .

21. However, the prayer sought for by the petitioner as well as the impleading petitioner A and B party cannot be permitted to be implemented in the interest of law and order problem which might arise. As the A and B party are under logger heads. In fact, the Hon'ble Division Bench in para No.49 has directed the parties to resolve their differences in the pending suit.

22. This Court is of the view that under these circumstances, it may not be feasible to accept the prayer made by the petitioner A party as well as the claim made by the impleading petitioner B party as lakhs and lakhs of people will be thronging to celebrate the occasion. However, both the parties are directed to adhere to the directions issued by the Hon'ble Division Bench as the matter is subjudice.

23. That apart, in the given situation, the Court also has to look into the



aspect of holding the customary event by celebrating the occasion and also adorning of gold armour on the deity (Guru Pooja) should not be stopped merely because there is a dispute between two factions namely A and B party of AIADMK.

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24. This Court is of the view that since the armour was directed to be placed on the deity coupled with an obligation in MoU that the said gold armour will be received by the treasurer of AIADMK party and the third respondent who would operate the said account and redeposit the same with Bank is certainly not possible as there is a claim and counter claim by A and B parties.

25. Hence, this Court issues the following directions:-

(I) The first respondent Bank is directed to accept the signature of the trust alone for the present year and the DRO of Ramnad District also to sign and receive the armour from the Bank and take it to the venue of celebration.

(ii) It would be responsibility of the DRO to safeguard the said gold armour (Kavasam) and to redeposit the same into the first respondent Bank after the ceremony is over.

(iii) The Superintendent of Police, Ramnad District shall provide adequate police protection while receiving the armour by the trust and DRO from the Bank and continue to protect the same till it is adorned and redeposit into the bank. (From 27th to 1st day of November)

(iv) The A and B party shall not interfere in the above said process of receiving adorning and redepositing the said gold armour at any cost as the same was donated by the then General Secretary of AIADMK Party and the then Hon'ble



Chief Minister of Tamil Nadu Dr.J.Jayalalitha.

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(v) This order is passed leaving open to A and B parties to agitate their respective claims in the main writ petition.

(vi) As the counsel expressed the practical difficulties of the District Revenue Officer, Ramnad to come and receive the same from the Bank tonight and hence, the District Revenue Officer, Madurai is hereby directed to do the said act of receiving the gold armour along with third respondent in the writ petition and hand over the same to the District Revenue Officer, Ramnad and then he can be relieved. At present, the Superintendent of Police, Madurai District is directed to give police protection to the District Revenue Officer, Madurai for receiving the gold armour from the bank till he hand over the same to the District Revenue Officer, Ramnad and the other orders are unaltered.

(vii) This Court suo motu implead the District Revenue Officer, Ramnad District and District Revenue Officer, Madurai. The learned Special Government Pleader takes notice on behalf of the newly impleaded parties.

25. Accordingly, W.M.P(MD)No.18242 of 2022 is disposed of.



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