



2023/KER/65334

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY, THE 20TH DAY OF OCTOBER 2023 / 28TH ASWINA, 1945

WP(C) NO. 29707 OF 2023

PETITIONERS:

- 1 J.C. DANIEL FOUNDATION
(REGISTER NO. TVM/TC/635/2013), A SOCIETY REGISTERED
UNDER TC ACT 12 OF 1955 HAVING ITS REGISTERED OFFICE AT
HOUSE NO. C-3A, TC. 4/657(1) SREEVILAS LANE, KOWDIAR
THIRUVANANTHAPURAM - 695003 REPRESENTED BY ITS
PRESIDENT V.C. JOSE, AGED 56 YEARS, S/O. V. CHELLAYAN
RESIDING AT DEEPAM, HOUSE NO. D9A, PNRA, SREEKRISHNA
LANE, KOWDIAR P.O. THIRUVANANTHAPURAM, PIN - 695003
- 2 ARUN MOHAN, AGED 60 YEARS

BY ADVS.
R.S.KALKURA
M.S.KALESH
HARISH GOPINATH
P.I.NAJUMAL HUSSAIN

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY DEPARTMENT OF
REGISTRATION GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 SECRETARY
TAXES DEPARTMENT GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 3 REGISTRAR OF SOCIETIES, OFFICE OF THE REGISTRAR OF
SOCIETIES GOVERNMENT OF KERALA VIKASBHAVAN, 6TH FLOOR
THIRUVANANTHAPURAM, PIN - 695033



- 4 I.G. REGISTRATION
DEPARTMENT OF REGISTRATION, VANCHIYOOR P.O.,
THIRUVANANTHAPURAM, PIN - 695035
- 5 DISTRICT REGISTRAR (GENERAL)
TRANSPORT BHAVAN, THIRUVANANTHAPURAM - 695023
- 6 DISTRICT REGISTRAR (GENERAL)
COLLECTORATE P.O., KOTTAYAM, PIN - 686002
- 7 J.C. DANIEL FOUNDATION, KTM/TC 31/2023,
PARANGATTU BUILDING PERUMBAYIKODE P.O., KOTTAYAM-
REPRESENTED BY ITS PRESIDENT, PIN - 686016
- 8 SONA S. NAIR,
- 9 SABU. B
- 10 J.C. DANIEL FOUNDATION
TVM/TC/14/2012, SELVAM LANDS SUNNY MEEDS LANE,
UNIVERSITY P.O., PALAYAM, THIRUVANANTHAPURAM-
REPRESENTED BY ITS PRESIDENT, PIN - 695034
- 11 SHOBHA
- 12 SECRETARY
J.C. DANIEL FOUNDATION TVM/TC/14/2012, SELVAM
LANDS SUNNY MEEDS LANE, UNIVERSITY P.O., PALAYAM,
THIRUVANANTHAPURAM, PIN - 695034
- SMT.VIDYA KURIAKOSE - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR



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ADMISSION ON 20.10.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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JUDGMENT

The allegation of the petitioners is that respondents 7 and 10 have been allowed to be registered by the District Registrar, Kottayam and Thiruvananthapuram respectively, in the same name of the first among them, even though they obtained such registration much earlier. They allege that the attempt of respondents 7 and 10 is to pass over as the first petitioner; and that, therefore, their registrations are now liable to be cancelled.

2. In response to the afore submissions of Sri.R.S.Kalkura – learned counsel for the petitioners, Smt.Vidya Kuriakose – learned Government Pleader, submitted that, when societies apply to be registered under the provisions of the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act (for short 'TC Act'), the District Registrars can only verify the bye-laws and the purposes of registration and then grant it, if there are no other legal impediments. She submitted that the District Registrars, obviously, were not aware that the first petitioner had already been registered; and therefore, that they cannot now do anything, and it is for the petitioners to



approach the fourth respondent – Inspector General of Registration appropriately, who can then take necessary action under the statutory scheme, though he also will not be able to cancel registrations, which relief can be obtained only under the orders of competent Civil Courts.

3. I notice from the file that, even though service of summons from this Court have been validly served on respondents 7 to 12, they have chosen not to be present in person, or to be represented through counsel; thus constraining me to dispose of this writ petition in their absence.

4. As is indubitable from the afore narrative of facts, the petitioners' contention is that respondents 7 and 10 have been registered by the respective District Registrars, unmindful of the fact that the first among them had been registered in the same name, much earlier, under the 'TC Act'. The response by the learned Government Pleader, as seen above, is that the respective Registrars were not aware of the registration of the first petitioner and that they had gone by the papers presented before him.

5. *Prima facie*, at first blush, this presents a real problem because, if there is no database accessible to the District



Registrars, as to whether any other entity has been registered in the same name, then controversies as impelled herein, will keep arising in the future. A proper method, as now available in the case of registration of the Companies and Firms, will certainly have to be put in place with respect to societies seeking registration under the "TC Act"; and it is the suggestion of this Court that the competent Authorities must consider collating all information in a proper Database, so that it can be accessed by the respective Registrars in future. This is, of course, only a commendation, because this Court cannot command such an action - it being within the policy domain of the competent Authorities.

6. As far as this particular case is concerned, the petitioners certainly will have to move the Inspector General of Registration or the competent Civil Court seeking apposite reliefs against respondents 7 and 10; and it would not be possible for this Court, while acting under Article 226 of the Constitution of India, to enter into affirmative declarations, since it will require assessment of various relevant factual and documentary materials and inputs, particularly as to the date of registration of the respective entities and such other.



In the afore circumstances, I allow this writ petition, leaving full liberty to the petitioners to move the fourth respondent – Inspector General of Registration or the competent Civil Court, through appropriate means. However, if the petitioners are to move the fourth respondent first and if it is done within a period of three weeks from the date of receipt of a copy of this judgment, the said Authority will hear them, as also respondents 7 to 12 or any other person who may be required of being heard; thus culminating in an appropriate order and necessary action thereon, as expeditiously as is possible, but not later than three months thereafter.

Sd/- DEVAN RAMACHANDRAN

JUDGE

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**APPENDIX OF WP(C) 29707/2023**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 16.05.2013 ISSUED BY THE REGISTRAR OF SOCIETIES, THIRUVANANTHAPURAM
- Exhibit P2 TRUE COPY OF THE BYELAWS OF THE 1ST PETITIONER
- Exhibit P3 TRUE COPY OF THE PAN CARD BEARING NO. AA1AJ3820C DATED 16.05.2013 STANDING IN THE NAME OF THE 1ST PETITIONER
- Exhibit P4 TRUE COPY OF THE DOCUMENTS SUBMITTED BY THE 10TH RESPONDENT SOCIETY FOR REGISTRATION OF THE SOCIETY WITH THE 5TH RESPONDENT OBTAINED BY THE 1ST PETITIONER THROUGH RIGHT TO INFORMATION ACT
- Exhibit P5 TRUE COPY OF THE DOCUMENTS SUBMITTED BY THE 7TH RESPONDENT SOCIETY FOR REGISTRATION OF THE SOCIETY WITH THE 6TH RESPONDENT OBTAINED BY THE 1ST PETITIONER THROUGH RIGHT TO INFORMATION ACT
- Exhibit 6 TRUE COPY OF THE DECLARATION SUBMITTED BY RESPONDENTS 8 AND 9 BEFORE THE REGISTRAR OF SOCIETIES
- Exhibit P7 TRUE COPY OF THE DECLARATION SUBMITTED BY RESPONDENTS 11 AND 12 BEFORE THE REGISTRAR OF SOCIETIES
- Exhibit P8 TRUE COPY OF THE COMMUNICATION DATED 24.05.2023 ISSUED BY THE 6TH RESPONDENT TO THE 1ST PETITIONER ALONG WITH THE ENCLOSURES THEREIN