

W.P.Nos.4563, 5465 & 4994 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.03.2025

PRONOUNCED ON : 16.04.2025

CORAM

THE HONOURABLE Mr. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.4563, 5465 & 4994 of 2025

AND

W.M.P.Nos.5084, 5087 of 2025

W.P.No.4563 of 2025

M/s.South Indian Senguntha Mahajana Sangam

Rep. by its General Secretary

R.P.Kumaragurubaran

Office at No.58, Armenian Street

Chennai 600 001

... Petitioner

Vs

1.The State of Tamil Nadu

Rep. by its Secretary to Government

Commercial Tax and Registration Department

Secretariat, Chennai 600 009

2.The Inspector General of Registration

Santhome, Mylapore, Chennai 600 005

3.The District Registrar of Societies (Administration)

South Chennai

Nandanam, Chennai 600 035

4.The District Registrar (Administration)

North Chennai Registration District

1st Floor, Kuralagam, Chennai 600 106

5.P.T.Rajan

W.P.Nos.4563, 5465 & 4994 of 2025

6.R.Ramalingam

7.S.Thangaraj

8.N.Chidambaram

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records pertaining to the order passed by the 1st respondent in G.O.(2D) No.17, dated 27.01.2025 and the consequential order passed by the 3rd respondent herein in Na.Ka.No.0664/E2/2025 dated 29.01.2025 and quash the same and thereby direct the respondents 1 to 4 not to interfere with the election process that has been commenced by the Hon'ble Election Officer in pursuant to the orders of this Court dated 20.06.2024 made in C.S.No.173 of 2023.

For Petitioner	: Mr.N.Murali Kumaran, Senior Counsel Assisted by Mr.S.Sathish Rajan
For RR 1 to 4	: Mr.P.S.Raman, Advocate General Mr J. Ravindran, Additional Advocate General Assisted by Mr.U.Baranidharan Special Government Pleader
For R5	: Mrs. Dakshayani Reddy, Senior Counsel Assisted by Mr.P.Rajan

W.P.No.5465 of 2025

Tiruchengode Vatta Kongu Velalar Sangam (Regn No.S39/1975)

Rep. by its President K.R.Appavu

23, 24 Tank Street, CHB Colony

Velur Orad, Tiruchengode 637 211

Namakkal District

... Petitioner

Vs

W.P.Nos.4563, 5465 & 4994 of 2025

The District Registrar (Administration)
District Registrar Office
Namakkal 637 001
Namakkal District

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to consider the report submitted by the petitioner sangam on 09.01.2025 in response to the communication issued by the respondent in Na.Ka.No.7119/E/2023 dated 02.12.2024 and take a decision on renewal of registration of the petitioner Sangam and communicate the same to the petitioner Sangam within a time limit to be fixed by this Court.

For Petitioner : Mr.P.Rajendran

For Respondent : Mr.P.S.Raman, Advocate General
Mr.J.Ravindran, Additional Advocate General
Assisted by Mr.K.Karthik Jaganath
Government Advocate

W.P.No.4994 of 2025

The Poor Educational Fund
Rep. by its Secretary P.R.Peter Paul
No.46/9, P.P.Nagar, 3rd Street
Razack Garden Main Road
Arumbakkam, Chennai 600 106

... Petitioner

Vs

1.The Inspector General of Registration
No.100, Santhome High Road
Chennai 600 028

2.The District Registrar (Central Madras)
268, Bharathi Salai, Express Estate
Royapettah, Chennai 600 014

3.Arulappa Premkumar

4.The Chief Manager
Central Bank of India
Sembiam Branch
Huzar Gardens, Sembiam
Chennai 600 011

5.The Manager
TNSC Bank, Perambur Branch
No.2/14, Vajravelu Street
Madavaram High Road
Perambur, Chennai 600 011

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 06.12.2024 and thereby approve the decision taken by the petitioner's 108th Annual General Body Meeting held on 01.06.2024 at Church Campus, Mettu Street, Manapathy Kandigai Village, Manampathy (Post), Uttiramerur Taluk, Kancheepuram District 603 403 of the Poor Educational Fund having registered number 01/1935 dated 27.04.1935 in accordance with law.

For Petitioner	: Mr.V.R.Kamalanathan, Senior Counsel Assisted by Mr.R.Manibarathi
For RR 1 & 2	: Mr.P.S.Raman, Advocate General Mr J. Ravindran, Addl. Advocate General Assisted by Mr.R.Sasikumar Government Advocate
For R3	: Mr.Arulappa Premkumar, Party-in-person

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Amicus Curiae in all W.Ps. : Mr.A.Rahul

COMMON ORDER

These three writ petitions are filed for different prayers under various circumstances. However, they are considered together and addressed in this common order for the following reasons.

2. W.P.No.4563 of 2025 is filed by a society registered under the Tamil Nadu Societies Registration Act, 1975. The name of the society is clear; it represents the members of a particular caste. The Memorandum of Association explicitly states its objective as follows :

“3. Objects: The Object of the Sangam shall be the upliftment of the Sengunthar Community

Means:- This object shall be secured by

(a) organising associations of Sengunthar Community in each and every locality where Sengunthar resides to elevate the community through these associations;

(b) Gathering and consolidating from time to time the opinions of such associations on important question relating to the community and promising communal sympathy, co-operation and solidarity among Sengunthars through such associations;

(c) Arranging for lectures and publishing pamphlets of an educative and propagandist value;

(d) promoting interest marriages among Sengunthars residing at various places and of different groups at the same place;

(e) Arbitrating and bringing union wherever there are factions among the members of the community;

(f) And doing further or other things as may be incidental and conducive to the betterment of the community.”

The Society also has by-laws, and the clause relating to membership reads as follows :

“4(a) Member-Ship: Branch Sangam: Members of either sex of the genuine Senguntha Community above the age of eighteen shall be entitled to become members of any branch Sangam.”

2.1. Thus, it can be seen that society is in the name of a caste, and its object is to strengthen the caste solidarity and caste sympathy and cooperation among the members of the caste, that is, to perpetuate the caste.

2.2. The petitioner in W.P.No.5465 of 2025 is also a society representing a specific caste. Its Memorandum of Articles and by-laws similarly restrict membership to caste members, with the goal of perpetuating the interests of that caste.

2.3. Caste in our nation, more particularly in the State of Tamil Nadu, is not restricted to any religion, but it has percolated to all religions unequivocally and also among the rationalists. The petitioner in W.P.No.4994 of 2025 has no problem with its name as it is called Poor Educational Fund. However, its

amended by-laws relating to the membership reads as follows :

“4. MEMBERSHIP

a. Any one from the Catholic Gavaras / Balijas / Telagas belonging to the States of Tamilnadu /Andhra / Karnataka / Pondy are eligible to become members of the Fund by paying a membership fee of Rs.200/- along with an application. The Executive Committee shall have the power to accept or reject it.

b. A Register containing the names and addresses of the members shall be maintained.

c. The membership shall cease in the case of resignation, death or indulgence in any anti-Fund activities.”

2.4. Thus, it can be seen that the membership is restricted to a particular caste belonging to the catholic sect of Christianity alone are eligible to become members.

2.5. The Tamil Nadu Societies Registration Act, 1975, which subsumes the Societies Registration Act of 1860, was enacted in 1975 as Tamil Nadu Act 27 of 1975 to provide registration for societies aimed at promoting education, literature, science, religion, charity, social life, art, crafts, cottage industries, athletics, sports, recreation, public health, social service, cultural activities, dissemination of useful knowledge, or any other beneficial purpose.

2.6. Consequently, when these matters came up for admission, the following preliminary questions arose. Can these societies that perpetuate caste be registered at all, and these writ petitions with reference to their intra-conflicts can be entertained and addressed by Courts of law? Given the concerning reality that many of these associations are also operating schools, colleges, and educational institutions under the name of caste, can the caste names of these schools and educational institutions continue?

3. Therefore, even while hearing the learned counsel appearing for these parties, since the question goes into the very maintainability of the writ petitions, these matters were consolidated, and this Court requested the learned Advocate General to place on record the Government of Tamilnadu's position on the issue.

4. *Mr.P.S.Raman*, the learned Advocate General, on instructions of the Government, would submit that already the Madurai Bench of this Court in *Sivakasi Hindu Poorviga Agamudayar Uravinmurai Mahamai Fund Arakkatalai Vs. The District Registrar (Societies) [W.P.(M.D.) No.17107 of 2015 decided on 29.08.2023]* had passed orders that any society with objects to

serve the welfare of the caste alone with its membership restricted to particular caste alone, would not be in tune with the constitutional goals as well as the principles contained in the Act, recorded the undertaking given by the Government to identify such societies and to initiate further action. Subsequently, the Inspector General of Registration issued Circular No.1/2024 dated 10.07.2024 and the relevant portion from the said circular reads as follows:

“3. எனவே, ஒரு குறிப்பிட்ட ஜாதி அல்லது வகுப்பினரின் (caste or community) நலன்கள் மற்றும் முன்னேற்றத்தினை மட்டுமே நோக்கங்களாகக் கொண்டு ஏற்படுத்தப்பட்ட சங்கங்கள் தமிழ்நாடு சங்கப் பதிவு சட்டத்தின் கீழ் சங்கப்பதிவாளரிடம் பதிவு செய்யப்பட்டுள்ள நிகழ்வுகள் சங்கப்பதிவாளரின் கவனத்திற்கு வரப்பெற்றால், அத்தகைய சங்கங்களின் நோக்கங்கள் (objectives) தமிழ்நாடு சங்கப் பதிவு சட்டப் பிரிவு 3(1)க்கு மாறாக இருப்பதனை சுட்டிக்காட்டி உரிய துணைவிதித் திருத்தத்தினை குறிப்பிட்ட காலவரையரைக்குள் மேற்கொண்டிட சங்கத்தினருக்கு பணிப்புரை (Direction) வழங்கிட வேண்டும்.

4. புதிதாக பதிவுக்கு தாக்கல் செய்யப்படும் சங்கங்களின் நோக்கங்கள் மற்றும் துணைவிதிகள் மேலே சொல்லப்பட்டுள்ளவாறு பிரிவு 3(1)க்கு ஒத்திசைவாக உள்ளதா என சரிபார்க்கப்பட வேண்டும்.

5. இச்சுற்றறிக்கையினை பெற்றுக்கொண்டமைக்கு ஒப்புதல் வழங்கிட அனைத்து மாவட்டப்பதிவாளர்கள் கேட்டுக்கொள்ளப்படுகிறார்கள்.”

5. After the same was placed on record, this Court further raised a query with reference to the name of the caste being used in the association name, and to date, many of the educational institutions run by these societies remain in the same caste name, the learned Advocate General requested further time to place on

record, the Government's view with reference to the matters. As a matter of fact, the Government of Tamil Nadu recognised the grim situation that is prevailing, especially among the youngsters and students in schools and colleges, the unprecedented and disgusting caste discriminatory feelings and issued a Government Order in G.O.Ms.No.152 School Education [Public 1(2)] Department dated 23.08.2023 (in short "G.O.152") appointing Hon'ble *Mr.Justice K.Chandru* (Retd.) of this Court to go into the issue and submit the guidelines/recommendations. Accordingly, the Hon'ble Commission submitted its report, which is also published as a book by a publisher named BODHIVANAM under the title "*Nanguneri Never... Ever Caste Violence in Educational Institutions*".

6. Under the grave circumstances when further report was sought, the Government initially took time to submit its response, and the matter was adjourned repeatedly for filing of the report by the Government. After taking time to place its stand on record, suddenly, the Government took a U-turn. The learned Additional Advocate General, *Mr.J.Ravindran*, appeared in the matter and would submit that the Government is not filing any response. He also further submitted that this Court also need not go into the same further and the same would be

travelling beyond the scope of the prayer in the writ petitions. Not stopping with that, an attempt is also made to stop this Court from adjudicating the issue by the Registrar of Societies passing some orders on the representations of the petitioners in their individual cause of actions, and it is submitted that fresh orders have been passed by the Registrar of Societies and therefore, the original prayers in the writ petitions have also become infructuous. The Government of Tamil Nadu could have done better by at least filing one line of response stating that the perpetuation of caste is bad.

7. The main question is whether the writ petitions under Article 226 of the Constitution of India can be maintained to decide intra-fights of caste associations and thus being on the very maintainability, the submissions that are made by the Learned Additional Advocate General that it is beyond the scope is incorrect. Neither the passing of subsequent orders will prevent the Court from deciding the issues that had arisen. Thus, this Court proceeded to hear the learned counsel appearing on behalf of the parties, and *Mr.A.Rahul*, the learned counsel who was present in the Court, was also requested to assist the Court as *Amicus Curiae* to place on record the relevant judgments relating to the issue.

8. *Mr.V.R.Kamalanathan*, learned counsel appearing on behalf of the writ

petitioner in W.P.No.4994 of 2025, submits that by virtue of the judgment of the Hon'ble Supreme Court in *Zoroastrian Cooperative Housing Society Ltd. and Another Vs. District Registrar, Cooperative Societies (Urban) and Others [(2005) 5 SCC 632]*, and more specifically referring to paragraphs 31 to 34, 37, and 38 when the legislative framework permits the formation of such caste associations, the Court should not indulge in formulating a public policy contrary to the same. Therefore, associations that incorporate a caste name in their title and restrict membership to caste members can indeed exist, and the writ petition should be entertained and decided on the merits of the matter.

9. The other learned counsel appearing on behalf of the parties did not address this question. However, they would place their submissions in respect of the issue involved in the causes of action disclosed by the caste associations. The learned counsel would also further submit that so far, the litigations filed by these caste associations have been entertained by the Courts of law. If it involves any statutory exercise of power, the writ petitions are entertained, and in case of dispute with reference to elections or such other private disputes among the members of these caste societies, suits have been entertained and have been

adjudicated by the Courts of law all along.

10. I have considered the submissions made both on behalf of the learned counsel for the petitioners and those originally presented by the learned Advocate General *Mr.P.S.Raman*, as well as the submissions by *Mr.J.Ravindran*, learned Additional Advocate General, along with all other learned counsels representing the parties.

11. It is submitted that writ petitions have consistently been entertained, and these caste associations exist, the disputes have also been resolved in the writ petitions as well as in civil suits. Therefore, there is no necessity to revisit this question. I am unable to accept the aforementioned contention for the following reasons:

- a. Law will not be static; the march of law will always continue to consider the needs of society. Seventy-five years after the adoption of the Constitution of India, caste discrimination and fanaticism has recently reached alarming levels.
- b. First and foremost, the unconditionally loving mother, who carried the child in her womb, gave birth and fed the child, and the

father, who raised the child with utmost care and affection, are killing their child simply because the child is entering into a relationship or marrying another human being from a different caste. Parents killing their own children for the sake of caste (honour killing) is on the rise. What more do we want?

c. Second, children are equated to gods, their hearts so pure and free from misgivings or discrimination. However, that is changing. Pristine innocence is now contaminating. School children wear different coloured armbands, form groups based on caste, and bring knives and weapons in their school bags, attacking their fellow students.

d. These are not isolated incidents. The Government of Tamil Nadu itself, while issuing G.O.152, also expressed the seriousness of the issue and that it has now become imminent to resolve this issue. The preamble of the said G.O. is extracted herein for ready reference:

“இனைய சமுதாயத்தினரிடையே சாதி, இன உணர்வு பரவியிருப்பது எதிர்கால தமிழ்நாட்டின் நலனுக்கு உகந்ததல்ல. இது உடனடியாக சரி செய்யப்பட வேண்டிய ஒரு முக்கியமானப் பிரச்சனை என்பதால், இதில், அரசு எந்த வகையான நடவடிக்கைகளை மேற்கொள்வது என்பது குறித்தும், பள்ளி, கல்லூரி மாணவர்களிடையே சாதி, இனப் பிரிவினைகள் இல்லாத ஒரு சூழ்நிலையை உருவாக்கிட மேற்கொள்ள வேண்டிய நடவடிக்கைகள் குறித்தும் அரசுக்கு ஆலோசனைகளை வழங்கிட ஓய்வுபெற்ற நீதியரசர் திரு.கே.சந்துரு அவர்கள் தலைமையில் ஒரு நபர் குழு அமைத்திட உத்தரவிட்டுள்ளேன்.”

e. Therefore, the courts cannot be oblivious to the happenings in society. In this regard, it is appropriate to quote paragraph 34 of the

judgment of the Hon'ble Supreme Court in *State of Karnataka vs. Appa Balu Ingale and Others [1995 (4) SCC 469]* as follows:

“34. Judges are summoned to the duty of shaping the progress of the law to consolidate society and grant access to the Dalits and Tribes to public means or places dedicated to public use or places of amenities open to public etc. The law which is the resultant product is not found but made. Public policy of law, as determined by new conditions, would enable the courts to recast the changing conceptions of social values of yesteryears yielding place to the changed conditions and environment to the common good. The courts are to search for light from among the social elements of every kind that are the living forces behind the factors they deal with.”

f. Till now, in most cases, in pleadings or judgments, we pulled along by referring ‘caste’ with a sweet-coated word ‘community’. If one takes a pause and reflects, ‘caste’ cannot be ‘community’. It can at best be termed as ‘*com-dividy*’.

g. Many schools, colleges, and educational institutions are managed by these associations. The name refers to a certain caste school or a school run by a specific caste sangam (association). The teacher enters the classroom and begins the lesson with the poem “சாதிகள் இல்லையடி பாப்பா”. Height of hypocrisy, dishonesty and sham.

h. Further, the Judges of the High Courts and the Presiding Officers of the civil Courts are also taught that caste is an anathema to society and that everyone should strive for the eradication of the caste system. All of us are taught Thirukkural (பிறப்பொக்கும் எல்லா உயிர்க்கும்), Barathiyar (சாதிகள் இல்லையடி பாப்பா), Avvaiyar (சாதி இரண்டொழிய வேறில்லை) , Barathidasan (இருட்டறையில் உள்ளதடா

உலகம், சாதி இருக்கின்றதென்பானும் இருக்கின்றானே) at School. Then, when we enter law college, we are taught Dr.B.R.Ambedkar, that Caste is the system that ends, paralyses and cripples the people keeping them from helpful activity. We are taught Articles 14, 15, 16 & 17 of the Constitution of India. Then, being appointed as Judges, we are called upon to decide whether 'X' person or 'Y' person won the caste association election and whether the form-VII filed by a particular person on behalf of the Registrar of Societies has to be taken on file or not. The education is only to hold caste system and perpetuation thereof is unconstitutional and not to adjudge who wins the caste intra-fight and becomes the leader of the caste society. Therefore, the question requires an emergent consideration.

12. The Hon'ble Supreme Court, in ***Zoroastrian Cooperative Housing Society Ltd.*** cited *supra*, considered the validity of the by-laws of a co-operative society that were concerned with a religious entity and not a caste organisation. Further, the judgment was rendered in the year 2005, and now we are in the year 2025, where subsequent developments in the form of honour killing, caste violence in schools, etc. have taken place and accordingly, this issue has to be considered and the situation has arisen as called out by the Hon'ble Supreme Court of India in paragraph 34 of the judgment in ***Appa Balu Ingale*** extracted

supra. Therefore, it is just and necessary that this Court should respond to this situation and meet the necessity of time and social needs to consider this issue and revisit the law in this regard.

13. Firstly, the ill effect of the caste system is known to everyone. Very recently, the Hon'ble Supreme Court had reiterated the ill effects in ***Sukanya Shantha Vs. Union of India and Others (2024 INSC 753)*** and it is essential to quote paragraphs 88 and 89, which reads as follows:

“88. The foundational principle of equality for all individuals was absent in the social framework defined by caste. The caste system operated as a mechanism that thrived on the labour of Bahujan communities, ultimately eroding their identity. In other words, the story of the caste system is, therefore, a story of enduring injustice. It is a narrative of how millions of Indians, relegated to the bottom of the social ladder, faced relentless discrimination and exploitation. The lower castes were systematically denied access to education, land and employment, further entrenching their disadvantaged position in society.

89. The caste system led to harrowing practices of discrimination and subjugation, rooted in the notions of purity and pollution, where some communities were deemed impure, and their presence was considered contaminated. The penal sanctions and discriminatory practices under the caste system have been well-documented in several scholarly works. Dr. Ambedkar referred to this as the “law of caste” in his writings.”

14. The Hon'ble Supreme Court, in ***N.Adithayan Vs. The Travancore Devaswom Board and Others [(2002) 8 SCC 106]***, in paragraph 15, has held that

all distinctions based on caste and creed must be abolished and the same is extracted hereunder for ready reference.

“15. As observed by this Court in Kailash Sonkar v. Maya Devi [(1984) 2 SCC 91] in view of the categorical revelations made in the Gita and the dream of the Father of the Nation Mahatma Gandhi that all distinctions based on caste and creed must be abolished and man must be known and recognized by his actions, irrespective of the caste to which he may on account of his birth belong, a positive step has been taken to achieve this in the Constitution and, in our view, the message conveyed thereby got engrafted in the form of Articles 14 to 17 and 21 of the Constitution of India, and paved the way for the enactment of the Protection of Civil Rights Act, 1955.”

15. The Hon’ble Supreme Court of India in ***Ashoka Kumar Thakur Vs. Union of India and Others [(2008) 6 SCC 1]*** had categorically held that casteless society is the constitutional goal and perpetuation of caste is against the constitutional goal. This Court, in ***A.Rajendran Vs. The Joint Commissioner, HR&CE, Coimbatore District (W.P.No.3838 of 2025 decided on 05.02.2025)***, had an occasion to consider the dictum of the Hon’ble Constitution Bench whereunder, the relevant portions were extracted, and it was declared that the perpetuation of caste will be against the public policy. The same holds good for this context also, and therefore, the relevant paragraphs 4-6 are extracted hereunder:

“4. Caste is a social evil. Casteless society is our constitutional goal. Anything towards perpetuation of caste can never be considered by any Court of law. The reason is very simple. Firstly, it is not decided by what one learns or does in life. It is by birth. Thus, it hits at the very basic ethos

of the society that all men are born equal. (பிறப்பொக்கும் எல்லா உயிர்க்கும்). Further, it divides society, leads to discrimination and violence and is against growth. The same has been emphatically laid down by the Hon'ble Supreme Court of India, in **Ashoka Kumar Thakur -Vs- Union Of India (2008 6 SCC 1)**. After noting down the contention that the Constitution does not think of a casteless society, in paragraph No.238, it was held that "the ultimate object is to see that no person gets discriminated against because of his caste. If that be so, it would not be right to say that the ultimate objective is not the casteless society." In paragraph No.298, it is held that "ultimate aim is a casteless and classless society in line with the dream of the Constitution-framers that has to be chewed out." In paragraph No.310, it is held that "It needs no emphasis that if ultimately and indisputably the constitutional goal is the casteless and classless society..." In paragraph No.328, it is stated that "when the object is elimination of castes and not perpetuation to achieve the goal of casteless society and a society free from discrimination of caste, judicial review within the permissible limits is not ruled out." In paragraph No.363, it is mentioned that "our leaders have always and unanimously proclaimed with one voice that our constitutional goal is to establish a casteless and classless society." In paragraph No.605, it has been held "...caste matters and will continue to matter as long as we divide society along caste lines. Caste-based discrimination remains. Violence between castes occurs. Caste politics rages on. Where casteism is present, the goal of achieving a casteless society must never be forgotten. Any legislation to the contrary should be discarded." In paragraph No.666, it is mentioned that "caste has divided this country for ages. It has hampered its growth. To have a casteless society will be the resolution of a noble dream." Thus, if at all it can only be taken into account, it can only be to provide reservation and positive discrimination to uplift the downtrodden/backward classes.

5. Despite seventy-five years of our Constitution, sections of the society are yet to shed this unwanted baggage. The very operation of the Constitutional scheme is frustrated, and the caste system leads to the perversion of the goals and values of the society. Thus, any prayer made which is in the nature of or which has the effect of perpetuation of caste will not only be unconstitutional but would be opposed to public policy. The time has come for this Court to emphatically declare so.

6. **Dr.B.R.Ambedkar**, in his famous speech on 25th November, 1949, on conclusion of deliberations of the Constituent Assembly, stated;

“In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life. They are anti- national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity, equality and liberty will be no deeper than coats of paint”.

Thus, it would be violence to the Constitution to entertain prayers on caste basis and exercise the jurisdiction under Article 226 of the Constitution of India.”

16. The dictates of the Hon’ble Supreme Court in **Appa Balu Ingale** cited *supra* itself would entitle such a public policy declaration by this Court. Further, in the context of a dispute relating to a temple car festival, this Court, in **Puthiya Tamilagam Vs. State of Tamil Nadu [2005(3) LW 140]**, has held in paragraph 10 as follows :

“10. Today we have delivered a judgment in Writ Petition No. 12240 of 1994 (since reported in 2005 3 L.W. 131) (*G. Krishnan & Others v. Union of India & Others*), in which we have said that in the modern age, no one should be insulted, humiliated or looked down upon, as this is the age of equality. Our Constitution also envisages equality, which includes special help and care for the weaker and oppressed sections of the society, who have been downtrodden for thousands of years. This Court will no longer tolerate such kinds of treatment of the S.C./S.T. Communities as they also are equal citizens of our country and are hence entitled to a life of dignity in view of Article 21 of the Constitution of India, as interpreted by the Supreme Court of India. In our opinion, to deny them the right to

participate in the pulling of the Temple Car is violation of Article 21 of the Constitution, apart from being violative of the orders of the Court dated 6.7.1998 and of the Commissioner dated 26.6.1999, and it will simply not be tolerated by this Court.”

17. With reference to the name of schools, the matter was considered by this Court in ***Suo Motu Writ Petition Vs. Chief Secretary (2024 SCC OnLine Mad 3433)*** and it is essential to extract paragraphs 4 and 5 which reads as follows:

“4. This Court would ask a question. If the Government School is named as “Tribal School”, then what would be the impact in the society. It is painful that even in the 21st century the Government is allowing to use such words in the Government Schools, functioning from and out of public money.

5. The State of Tamil Nadu, being a fore runner State in social justice, cannot allow such stigmatic words be added as “prefixes” or “suffixes” in the name of the Government Schools or any Government institutions. In this regard, the first respondent Chief Secretary to Government of Tamil Nadu have to initiate appropriate action.”

18. The petitioners herein are the associations that have clear goals to promote their caste. The name of the caste is reflected in their association, and its by-laws specify that only members of the caste can join the association.

19. In this regard, it is submitted that the downtrodden people cannot unite and fight for their rights. The Hon’ble Supreme Court has also clarified that the ultimate goal is to achieve a casteless society. To attain this goal, no one prevents

members of the downtrodden caste from fighting for their rights or forming a society for that matter. However, if they also carry the caste name and restrict the membership to the caste, obviously it becomes a self-defeating exercise. There is no point in running around the obvious elephant in the room. The argument is to carry the burden on their own head and, as such, is not an answer.

20. The second argument is that even the members of the same caste can come together and perform the other useful purposes of the society. The same is not prohibited or unwelcome, but when an association is formed, when it restricts the same to a particular caste alone and the association is in the name of the caste, then this becomes unconstitutional.

21. It is essential to extract Section 3 of the Tamil Nadu Societies Registration Act (in short “the Act”), which reads as follows:

“Section 3 - Societies which may be registered

(1) Subject to the provisions of sub-section (2), any societies which society which has for its object the promotion of education, may be literature, science, religion, charity, social reform, art, registered, crafts, cottage industries, athletics, sports (including indoor games) recreation, public health, social service, cultural activities, the diffusion of useful knowledge or such other useful object with respect to which the State

Legislature has power to make laws for the State, which may be prescribed, may be registered under this Act.

(2) Notwithstanding anything contained in subsection (1), no association which has for its object the improvement of the economic condition of workmen, no club where games of chance providing prizes for winners are played and no society which does not consist of at least seven persons shall be registered under this Act.”

22. Thus, it can be seen that the perpetuation of caste is not one of the objects which could be entertained under the Act. Further, Section 5 of the said Act is extracted as follows:

“Section 5 - Any society which has for its object

(a) the promotion of religion, athletics or sports (including indoor games) ; or

(b) any other object mentioned in, or prescribed under, section 3 and to which society the provisions of section 4 are not applicable, may, at its option, be registered under this Act.”

23. In this context, it can be seen that the caste system that is prevailing as of date has to do nothing with the religion. As a matter of fact, it can be seen from the above that it is cutting across religion, and people are not willing to put down this burden from their head, and they will carry it along with them, and these fanatics will carry it even to the moon. In ***ABSKS Vs. Union of India [(1981)1 SCC 246]***, Justice Krishna Iyer observed that the fighting faith in a casteless society

is a constitutional value and the judgment of the Hon'ble Supreme Court in *Arumugam Servai Vs. State of Tamil Nadu (AIR 2011 SC 1859)* is that the caste system is a curse on the nation.

24. Considering the principles laid down by the Hon'ble Supreme Court in *Prithvi Raj Chauhan Vs. Union of India [(2020) 4 SCC 727]* and *V.V.Giri Vs. D.Suri Dora (AIR 1959 SC 1318)*, this Court, in *Sivakasi Hindu* cited *supra*, speaking through Hon'ble Mr.Justice G.R.Swaminathan, held as follows:

“4.The matter cannot rest there. Section 3(1) of the Act states that any society which has for its object the promotion of education, literature, science, religion, charity, social reform, art, crafts, cottage industries, athletics, sports (including indoor games) recreation, public health, social service, cultural activities, the diffusion of useful knowledge or such other useful object with respect to which the State Legislature has power to make laws for the State, which may be prescribed, may be registered under this Act. The object of the petitioner as seen from its bylaws is to cater to the interests of a particular community. Section 3(1) of the Act does not envisage registration of any society on caste basis. Our Constitution envisages a casteless society. In ABSKS v. UOI (1981) 1 SCC 246, Justice Krishna Iyer observed that the fighting faith in a casteless society is a constitutional value. In Arumugam Servai v. State of Tamil Nadu (AIR 2011 SC 1859), it was observed that the caste system is a curse on the nation and the sooner it is destroyed the better and that it is dividing the nation. Emphasis on caste identity is opposed to the principle of fraternity proclaimed in the preamble of the Constitution and a tacit acknowledgement of the “otherness” of each one's identity (Prathvi Raj Chauhan v. UOI (2020) 4 SCC 727. As early as in 1959, the Hon'ble Supreme Court referred to the exclusive character of the caste system and hoped that the position will change and in course of time, the cherished

ideal of the casteless society truly based on social equality will be attained (V.V.Giri v. D.Suri Dora, AIR 1959 SC 1318). I wondered as to how bodies dedicated to espousing the cause and interests of castes can be registered as societies under the Act. I called upon the Government to respond. The Secretary to Government, Commercial Taxes and Registration Department, Government of Tamil Nadu has filed an affidavit before this Court stating that only those societies whose objects are statutorily recognized can be registered and that instruction will be given to societies to amend their Memorandum and Bylaws so as to ensure that their object is not to serve the welfare of only particular castes. It is further undertaken that suitable instructions will be issued to all the Registrars to identify the societies under their jurisdiction which have been named in the name of particular castes.”

25. The Circular No.1/2024 implementing the aforementioned judgment has already been extracted *above*. However, the fact remains that all these caste associations are still operating under the same by-laws, and no action has been taken even against the single caste society. The petitioner's counsels will acknowledge that they have not been requested to submit any amendments to their by-laws. Circular No.1/2024 remains a paper tiger. The inaction on the part of the Inspector General of Registration of Societies and the subordinate officials, who only show compliance on paper with this Court's order while violating their own commitments and failing to take action against these caste associations, not only contravenes the order of this Court but also constitutes a huge disservice the constitution and every day inaction increases caste order and defeats the

constitutional goal.

26. Although the name of the caste in the associations is not explicitly addressed in ***Sivakasi Hindu*** cited *above*, the relevant Sections 3 and 5 of the Act are provided *above*. The mere mention of the caste name in the association certainly fosters disharmony and feelings of enmity, hatred, or ill will among people from different castes. If we perpetuate caste, it inevitably results in a breach of fraternity within society, leading to ill feelings and enmity among groups. The fact that it spreads like cancer even among school children underscores this issue. Thus, the very presence of the caste name in society promotes disharmony, hatred, enmity, and ill will among various castes. In this regard, it is important to include Section 9 of the Act, which reads as follows:

“Section 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, racial, language, or regional groups or castes or communities ; or

(c) identical with, or too nearly resembles, the name by which a society in existence has been previously registered. Certificate

of registration.”

27. Therefore, I believe that not only should these societies amend their by-laws, but they also need to change the name of the association. No name associated with a caste or sub-sect should be included in it. As long as they retain their caste name in the title of the association or society and aim to promote or perpetuate caste solely having membership within the caste or sub-sect, the said society is pursuing an unconstitutional goal of perpetuating caste, thereby straying from the valid purposes of the Act outlined under Sections 3 and 5 of the Act, and can never remain on the rolls as registered societies. Even the association registered under the Societies Registration Act of 1860, though saved by the proviso, still will be at par with the other societies in this issue by virtue of the Constitutional mandate.

28. Their disputes cannot be entertained by this Court under Article 226 of the Constitution of India. The framers of the Constitution granted powers to the High Court to uphold valuable fundamental rights and other rights under the law. Before training their guns on others, these caste association members also indulge

in rehearsals in the form of infighting within the association and with reference to elections, etc., and these cases are filed. Thus, these intra-association conflicts and the prayers that are made are clearly against the constitutional goal and opposed to public policy. Thus, it cannot be entertained by a Court of law.

29. The Second Respondent and the Registrars of Societies under him must act and cannot merely demonstrate paper compliance. They shall compile a list of all these societies. They need to implement Circular No. 1 of 2024 within a specified time frame. Furthermore, they must verify the name of each society and the goals stated therein. Societies unwilling to relinquish this baggage must be struck off the roll in the exercise of powers under Section 38 of the Tamil Nadu Societies Registration Act, 1975, as they are engaged in unlawful activity. In light of this, an opportunity can be provided to these associations to remove words denoting caste or sub-sect from their names and to rename their associations with more neutral names that do not reflect any particular caste or community. Additionally, they can be given an opportunity, as outlined in Circular No.1/2024, to amend their by-laws to align with their objectives in a manner consistent with the provisions of the Act and the Constitution of India, thereby eliminating any

perpetuation of caste, directly or indirectly. Membership should also not be confined to a specific caste alone.

30. The petitioners shall approach the Registrar concerned and amend the name of their association as well as their by-laws, and only upon submission of the same will they be entitled to approach this Court for any relief whatsoever. Unless they are able to persuade their associations to do the same, they will not be entitled to the remedies in law. Law and Order situation, if any, arises alone will be taken care of by the appropriate agencies and nothing more.

31. This leads us to the next question regarding the names of educational institutions. When these societies operate schools and colleges, there is a caste name associated with the educational institution. Some names directly reflect the caste, while others append caste names to the donors' names. Ironically, Government schools also exhibit this issue, being named directly after castes (e.g., Adidraavidar Welfare School, Kallar Reclamation School, etc.). In this context, the only argument made is that this is beyond the scope of this writ petition. It can only be stated that naming government schools with caste names is not directly within

the realm of the decision being made in this writ petition.

32. Furthermore, a Division Bench of this Court (of which I am a member and the judgment authored by me), in *The Secretary, Tamilnadu Olympics Association Vs. S. Nithya and others (W.A.No.1202 of 2022 decided on 26.04.2022)*, while thoroughly considering the directions issued with reference to the administration of the Sports Association, examined the argument regarding the scope of the writ petition and held that in situations like these, it is not only within the power under Article 226 but also a duty. We also evaluated the relevant judgment of the Hon'ble Supreme Court of India on this issue, and paragraphs 12 to 17 can be gainfully extracted as follows:

*“12. Further, the High Courts while exercising the Jurisdiction under Article 226 of the Constitution of India, in appropriate cases not only have the powers to issue suitable directions which may not be exactly prayed in the Writ Petition but also have a duty to issue such directions, whenever the facts and circumstances of the case demand. Considering the alarming state of affairs and urgent need to remedy the situation especially in the absence of an appropriate legislation, the learned Judge had issued the directions. In this regard, the Supreme Court of India in **Comptroller and Auditor General Vs. K.S. Jaganathan [1986 (2) SCC 679]**, in paragraph No.18 held as follows:-*

“Article 226 is designedly couched in wide language in order not to confine the power conferred by it on the High Courts only to the power to issue prerogative writs as understood England. The High Courts

exercising jurisdiction under Article 226 can issue directions, orders or writs so as to enable the High Courts to reach injustice wherever it is found and to mould the reliefs to meet the particular and complicated needs of this country.”

*13. The Supreme Court of India, **Krishan Lal Gera Vs. State of Haryana(2011 (10) SCC 529)** , had categorically held that it is the duty of the High Court to strike at such actions of nepotism, favouritism, especially in the field of sports, in paragraph No.21 of the said Judgment is extracted hereunder:-*

“21. Whenever nepotism, favouritism and unwarranted government largesse to private interests, threaten to frustrate schemes for public benefit, it is the duty of the High Courts to strike at such action. The stadium is meant for improving and developing sports and sportspersons.”

*14. The nature of powers of this Court under Article 226 of the Constitution of India, has been laid down in the Judgment of the Hon'ble Supreme Court of India, in long back in **Dwarka Nath vs. Income Tax Officer, Special Circle D-ward, Kanpur and Ors.** (AIR 1966 SC 81), wherein it held as follows:-*

“6.This article is couched in comprehensive phraseology and it *ex facie* confers a wide power on the high court to reach injustice wherever it is found. The constitution designedly used a wide language in describing the nature of the power, the purposes for which and the person or authority against whom it can be exercised. It can issue writs in the nature of prerogative writs as understood in England; but the scope of those writs also is widened by the use of the expression "nature", for the said expression does not equate the writs that can be issued in India with the those in England, but only draws in analogy from them. That apart, High Courts can also issue directions, orders or writs other than the prerogative writs. **It enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this country.** Any attempt to equate the scope of the power of the High Court under article 226 of the Constitution with that of the English courts to issue prerogative writs is to introduce the unnecessary procedural restrictions grown over the years in a comparatively small country like England with a unitary form of Government to a vast country like India functioning

under a federal structure. Such a construction defeats the purpose of the article itself. To say this is not to say that the High Courts can function arbitrarily under this Article. Some limitations are implicit in the article and others may be evolved to direct the article through defined channels. This interpretation has been accepted by this Court in T. C. Basappa v. Nagappa, MANU/SC/0098/1954: [1955]1SCR250 and Irani v. State of Madras, MANU/SC/0080/1961 : [1962]2SCR169.”

*15. Further, in the Judgment of the Hon'ble Supreme Court of India in the case of **State of Rajasthan v. Hindustan Sugar Mills Ltd.(1988 3 SCC 449)** , it held as under:-*

“4.The High Court was exercising high prerogative jurisdiction under Article 226 and could have moulded the relief in a just and fair manner as required by the demands of the situation...”

*16. The Hon'ble Supreme Court of India, had in its Judgment in **State of Kerala Vs. T.P.Roshana(1979 1 SCC 572)** , categorically upheld that the High Court's necessity to innovate, widen the base and organize the relief, so that the Court can actualize the social justice even as it inhibits the injustice and laid down that the remedial jurisprudence, transforms the Court powers into affirmative structuring of redress, so as to make it personally meaningful and socially relevant. It is useful to extract the relevant paragraph Nos.3 & 40 of the said Judgment, which reads as follows:-*

“3. Any incisive study of the exercise of the writ power in India may reveal that it limits its action to quashing or nullifying orders proceeding on a violation of law, but stops short of a reconstruction whereby a valid scheme may replace a void project. This is no reflection on the High Court's ruling but is symptomatic of an obsolescent aspect of the judicial process, its remedial shortcomings in practice and **the need to innovate the means, to widen the base and to organise the reliefs so that the court actualises social justice even as it inhibits injustice.** This community perspective of the justice system explains why we have resorted to certain unusual directions and have shaped the ultimate complex of orders in these proceedings in a self-acting package. With this exordium we proceed to narrate briefly the necessary facts and developments revelatory of the course of events and the cause of action, the impact of the High Court's judgment and the compulsions which have

brought the State in appeal to this Court.

40. Had we left the judgment of the High Court in the conventional form of merely quashing the formula of admission the remedy would have aggravated the malady — confusion, agitation, paralysis. The root of the grievance and the fruit of the writ are not individual but collective and while the “adversary system.” makes the Judge a mere umpire, traditionally speaking, the community orientation of the judicial function, so desirable in the Third World remedial jurisprudence, transforms the court's power into affirmative structuring of redress so as to make it personally meaningful and socially relevant. Frustration of invalidity is part of the judicial duty; fulfilment of legality is complementary. This principle of affirmative action is within our jurisdiction under Article 136 and Article 32 and we think the present cases deserve its exercise.”

17. Therefore, when the extraordinary situation compels, that too in the Writ Petition filed with core and crux of the issue being sports administration and management, issuing of directions as extracted above cannot be termed as traveling beyond the scope of the Writ Petition, but, very much within the scope of the Writ Petition. As a matter of fact, it is in the realm of the duty of the High Court in exercise of its powers under Article 226 of the Constitution of India, to properly grant the reliefs in a manner as to redress the grievance actually expressed in the Writ petition, and thus, we reject the submission made by the learned Senior Counsel.”

33. Therefore, I am of the view that the core issue involved in these writ petitions are with reference to the social evil called caste, then, the incidental issue can also be addressed before this Court. Therefore, this issue can brook no delay. These private colleges and schools run by these organisations or any other trust or Government cannot directly or indirectly with the caste names. As a matter of fact, after considering the entire issue in detail running to more than 600 pages, the Hon’ble Mr.Justice K.Chandru (Retd.)/One Man Committee gave several

recommendations and the following first recommendation has to be implemented without any delay and the same is extracted herein for ready reference:

“1. Dropping the Caste Appellations

a. The government must issue an administrative order directing the removal of the names "Kallar Reclamation" and "Adi Dravidar Welfare" as prefixes from school names and must refer to them solely as "Government Schools", followed by their place of location.

b. The government must mandate the removal of any caste prefix or suffix associated with government schools that indicate either the donor or their family.

c. If any educational agency seeks to establish a new school, the conditions for permission to start a school must include a stipulation that the school's name shall not bear any caste appellation.

d. In the case of existing private schools that have caste appellations, the department should request these schools to give up. If they fail to comply, appropriate legal steps should be considered, including legislative changes to serve the larger public interest.”

34. The report had considered the issue in great detail with all the particulars, and taking into account the ground situation prevailing in the educational institutions. Even otherwise, the use of the caste name *per se* in the school goes directly against the teachings inside the school and as a society it must be serious enough when we teach the students of the Tirukkural “கற்க கசடற கற்பவை கற்ற பின் நிற்க அதற்குத் தக”. In any event, when this Court has declared that use of the caste name is opposed to public policy, the same cannot brook any delay and has to be removed forthwith in the names of the schools.

35. In view thereof, these writ petitions are disposed of with the following directions:

i. The petitioners/their societies shall approach the Jurisdictional

Registrars and submit the relevant forms,

(a) changing the name of the society/association by dropping the caste/sub-sect name;

(b) amending the goals from perpetuating/proliferation caste/sub-sect;

(c) amending the membership bye-law not making caste as a criteria and upon the forms being furnished, the same shall be taken on file and dealt with and approved as per the rules;

ii. Once they have submitted the above, they will be entitled to approach this Court again for any relief(s) for consideration of the relief(s) on their merits;

iii. The Inspector General of Registration shall issue directions and all the jurisdiction Registrars of Societies shall forthwith draw a list of these societies that have caste/sub-sect as part of their names, caste perpetuation/proliferation as their goal and membership from among caste members and require them to comply with the following :

- (a) Dropping Caste/Sub-Sect name from their Society name;*
- (b) Amending their goal from perpetuation/proliferation of caste;*
- (c) Amending there membership clauses in the by-laws etc., from making caste/sub-sect as a criterion and thus comply with Circular No.1 of 2024. If the said societies do not comply, then treat their activity as unlawful and cancel their registration as per Section 38 of the Tamilnadu Societies Registration Act, 1975, and their assets be dealt with in the manner known to law.*

iv. The above exercise in paragraph (iii) above shall be commenced within three months from the date receipt of the web copy of the order and shall be completed as expeditiously as possible in any event within 6 months therefrom;

v. In case these societies run any private or aided schools, colleges

or other educational institutions, it should be ensured that no board depicting the caste name either directly or indirectly in any manner is mentioned in the campus of the school or in its records;

vi. In case there are caste appellations in the names of the institutions, notice must be issued to the institutions to give up the names of the caste within a period of four weeks from the date of receipt of the web-copy of this order, and the names should be changed and if they fail to comply, steps to be taken to de-recognize the institutions and the students to be transferred to some other recognised institution. The said exercise shall be completed within the academic year 2025-2026, failing which, the students should be transferred to other institutions in the academic year 2026-2027;

vii. The same exercise shall be done with reference to the schools/institutions that are run by another individual or Trust, also ensuring that there are no caste appellations/names.

viii. The Government shall remove the caste names (*Kallar Reclamation, Adi-Dravidar Welfare, etc.*) as prefixes or any other caste names as suffixes in the school and hostel names, and they shall

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be referred only as Government schools and hostels followed by their place of location. If the donor's name is mentioned in the name of the school and hostel, the name of the donor alone shall be mentioned after removing the caste prefix or suffix associated with the name of the donor or their family.

36. With the above directions, these writ petitions are disposed of.
No costs. Connected W.M.Ps. are closed.

16.04.2025

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Index : Yes/No

Neutral Citation : Yes/No

To

1.The Secretary to Government
Commercial Tax and Registration Department
Secretariat, Chennai 600 009

2.The Inspector General of Registration
Santhome, Mylapore, Chennai 600 005

3.The District Registrar of Societies (Administration)
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4.The District Registrar (Administration)
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5.The District Registrar (Administration)
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6.The District Registrar (Central Madras)
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D.BHARATHA CHAKRAVARTHY, J.

gya

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