

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.30160 of 2017
and W.M.P.No.32772 of 2017

1. K.Manoharan
2. J.Jeyasingh Simon Samraj
3. P.Anandan
4. N.Banu
5. M.Palanisamy
6. S.Poongodi
7. A.Baby Kannu
8. A.Rangasamy
9. P.Subbulakshmi

Petitioners are office bearers
of the Elected Board of the Society. ...Petitioners

Vs.

1. The Deputy Registrar of
Co-operative Societies,
Erode Region,
(District Election Officer),
Surampatti valasu,
Erode - 638 009.
Erode District.
2. The Electoral Officer,
Modakurichi Circle Teachers
and Public Servants Cooperative
Thrift and Credit Society P.E. 65,
Modakurichi,
Erode District.
3. The Secretary,
Modakurichi Circle Teachers
and Public Servants Cooperative
Thrift and Credit Society P.E. 65,
Modakurichi,
Erode District.

4. Modakurichi Circle Teachers
and Public Servants Cooperative
Thrift and Credit Society P.E. 65,
rep. By its administrator,
Modakurichi,
Erode District.

5. R.Sengottaiyan

6. A.George

7. N.P.Sivakami

.. Respondents

PRAYER: Writ petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of
Certiorari calling for the records relating to the impugned
order dated 26.10.2017 made in ARC No.130/2017-18 passed by the
1st respondent and quash the same.

For Petitioners: Mr.N.Manokaran

For Respondents: Mr.V.Selvaraj,
Additional Government Pleader
for R1 and R2
Mr.L.P.Shanmugasundaram
Special Government Pleader for R3 & R4.

O R D E R

Heard both sides.

2. The petitioners in this writ petition are aggrieved
against the order passed by the first respondent dated
26.10.2017 in setting aside their election to the Board of
Modakurichi Circle Teachers and Public Servants Cooperative
Thrift and Credit Society, Erode District.

3. Though several contentions are raised in this writ
petition challenging the impugned order, this Court is of the
considered view that the following short facts are enough, for
the present, to dispose of the writ petition without going into
the other merits of the matter namely, the reasons for setting
aside the election and giving a finding therein, as this writ
petition can be disposed of solely on the ground of violation of
principles of natural justice, which is evident on the facts and
circumstances as discussed below.

4. It is not in dispute that the election to the said
Society was held on 07.07.2017 and the results were published on

08.07.2017. It is seen that the 5th respondent has filed Election Petition before the first respondent on 14.07.2017 raising certain objections/ grounds challenging the election to the Board of the said Society. The 5th respondent, after preferring such Election Petition on 14.07.2017, filed a Writ Petition also before this Court in W.P.No.18263/2017 on 16.07.2017 seeking for a mandamus directing the 3rd respondent therein (1st respondent herein) to forthwith consider and pass orders on the Election Dispute Petition dated 14.07.2017 filed by him under the Tamil Nadu Cooperative Societies Act, 1983. In the said Writ petition, admittedly, these petitioners were arrayed as respondents 6 to 16. This Court, by order dated 19.07.2017 disposed of the said writ petition by directing the 3rd respondent therein (1st respondent herein) to consider the Election Dispute Petition of the petitioner dated 14.07.2017, as the expeditiously as possible, after affording an opportunity of hearing to all the parties concerned. Thereafter, the present impugned order was passed by the first respondent herein on 26.10.2017 setting aside the election, based on certain reasons and findings stated in the impugned order.

5. As I have already pointed out, this Court, at this stage is not inclined to go into those reasons and findings and to give its own findings on the same as admittedly, the first respondent has passed the present impugned order without hearing the petitioners herein, who are the elected members to the Board. It is not in dispute that these petitioners were not made as parties in the Election Petition and on the other hand, the Election Officer and the Secretary to the said Society alone were made as party respondents therein. I have already pointed out that this Court, while disposing of the earlier writ petition on 19.07.2017 has specifically directed the first respondent herein to dispose of the Election Dispute Petition after affording an opportunity of hearing to the parties concerned. Admittedly, these petitioners who were party respondents in the said writ petition, in all fairness, ought to have been issued with notice and heard by the 1st respondent before deciding the Election Dispute Petition dated 14.07.2017.

6. When this matter was taken up on 23.11.2017, Mr.B.Selvaraj, learned Additional Government Pleader took notice for the respondents 1 and 2 and sought time to get instructions. Today, when the matter is taken up for further hearing, the learned Additional Government Pleader, based on instructions, submitted that the first respondent has not issued any notice to these petitioners before deciding the Election Dispute Petition. Therefore, it is evident that the first respondent has passed the impugned order by not following the order passed by this Court in W.P.No.18263/2017 on 16.07.2017 in its strict sense. Needless to say that the parties concerned referred to therein,

undoubtedly, include the parties who got elected to the Board, namely, the petitioners herein. Thus, this Court is fully satisfied that the impugned order cannot be sustained solely on the ground of violation of principles of natural justice as well as on the reason that the same is not in compliance with the order passed by this Court in W.P.No.18263/2017 on 16.07.2017 as discussed supra.

7. Accordingly, the Writ Petition is allowed and the impugned order is set aside. The matter is remitted back to the first respondent for considering the Election Dispute Petition afresh and pass orders on merits and in accordance with law after giving due opportunity of hearing to these petitioners and the respondents who are already on record. The said exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of this order.

8. At this juncture, the learned counsel for the petitioner requested to pass a further order to permit these petitioners to function as the persons elected to the Board since the impugned order is being set aside. I do not propose to accede to the said request since this Court has not gone into the merits of the allegation made against the petitioners and the reasons and findings rendered by the first respondent therein in the impugned order. Therefore, status quo as on today shall be maintained in respect of the administration of the said Society till an order is passed by the first respondent as directed in this writ petition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

To

1. The Deputy Registrar of
Co-operative Societies,
Erode Region,
(District Election Officer),
Surampatti valasu,
Erode - 638 009.
Erode District.

2. The Electoral Officer,
Modakurichi Circle Teachers
and Public Servants Cooperative
Thrift and Credit Society P.E. 65,
Modakurichi,
Erode District.

3. The Secretary,
Modakurichi Circle Teachers
and Public Servants Cooperative
Thrift and Credit Society P.E. 65,
Modakurichi,
Erode District.

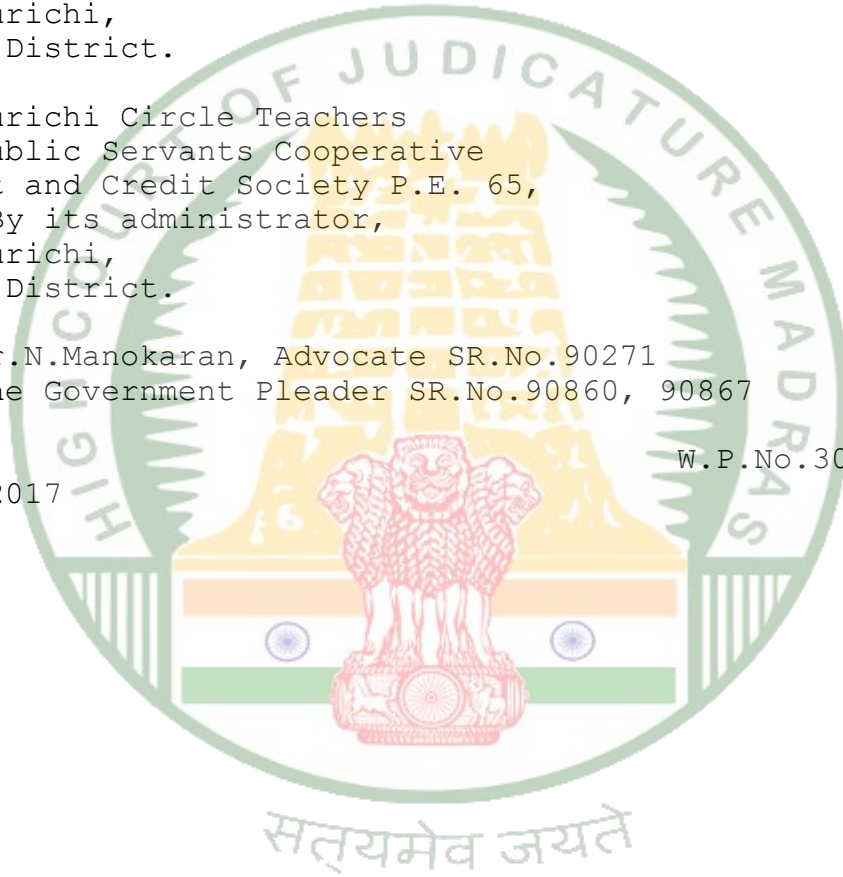
4. Modakurichi Circle Teachers
and Public Servants Cooperative
Thrift and Credit Society P.E. 65,
rep. By its administrator,
Modakurichi,
Erode District.

+1cc to Mr.N.Manokaran, Advocate SR.No.90271

+2cc to the Government Pleader SR.No.90860, 90867

W.P.No.30160 of 2017

sm:20.12.2017



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