

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.6.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10312 of 2017
and W.M.P.No.11213 of 2017

P.S.Padmanabhan

... Petitioner

Vs.

- 1 The Central Registrar of Co-operative Societies (L&M),
Ministry of Agriculture,
Department of Co-operation,
Krishi Bhavan,
New Delhi 110 001.
 - 2 The Director (Co-operation),
Government of India,
Ministry of Agriculture and Farmers welfare,
Department of Agriculture,
Co-operation and Farmers Welfare.
Krishi Bhavan,
Dr. Rajendra Prasad Road
New Delhi 110 001.
 - 3 The Secretary,
Indian Oil Corporation Employees
Co-operative Society Limited,
Indian Oil Bhavan,
139, Mahatma Gandhi Road,
Nungambakkam, Chennai 34.
- ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 1st respondent to permit the originally lawfully elected Board of Directors of the petitioners society on 13.03.2016 for a period of 5 years from 2016 to 2021 to continue to function as Board of Directors of the petitioners Society for the remaining term.

For Petitioner	:	Mr.T.P.Prabakaran
For Respondents 1 & 2	:	Mr.S.Makesh Addl. Central Govt. Standing Counsel
For Respondent No.3	:	Mr.Balan Haridas

O R D E R

According to the petitioner, election to the post of delegates of the petitioner society was conducted on 19.2.2016 for constituency I and II on different dates. The third respondent has formed the Election Committee in pursuant to a resolution of the Board, dated 18.10.2015. One Mr.G.Ramachandran was authorised to act as Chief Election Officer and he conducted the election and declared 58 members of the society as elected delegates. He conducted the election of directors among the elected delegates and declared 11 delegates as directors. In the said election, the petitioner was elected as President of the Board of Directors. While that being the position, suddenly on 23.6.2016, the third respondent called for a special representative Generalbody meeting to be held on 10.7.2016 at 11 a.m. According to the petitioner, the said meeting convened by the third respondent is illegal. Further, according to the petitioner, one Mr.Rangarajan has threatened and illegally obtained a signature from the petitioner in typed resignation letter on 6.7.2016 by way of coercion. Hence, the petitioner has filed the present writ petition before this Court for the aforesaid prayer.

2 The learned counsel for the third respondent would submit that the writ petition is not maintainable under Article 226 of the Constitution of India in the light of the judgment in K.Marappan vs. The Deputy Registrar of Co-operative Societies & another reported in CDJ 2006 MHC 2470. If at all the petitioner has any grievance, petitioner has to approach before the competent authority to raise all the grounds. Without resorting to such remedy, the writ petition is not maintainable. Further, according to the learned counsel for the third respondent, any dispute in the conduct of the election or the dispute among the elected bodies, the petitioner has to approach the competent authority under Section 84(2) (c) of the Multi-State Co-operative Societies Act, 2002.

3 The learned counsel for the first respondent would submit that on perusal of the affidavit and the typed set of papers would show that there is no record to show that the petitioner made representation to the first respondent. If any such representation is made, the same shall be considered in accordance with law.

4 Heard the learned counsel for the petitioner and the learned Additional Central Govt. Standing counsel for the respondents 1 and 2 and the learned counsel for the respondent No.3 and perused the materials on record.

5 A perusal of records shows that the petitioner was elected as President of the Board of Directors of the third respondent society. It is seen from the records that the petitioner had submitted the resignation vide his letter dated 6.7.2016. Pursuant to the said resignation letter, on instruction, the third respondent has convened Special Generalbody meeting. With reference to the letter communicated by the first respondent, special generalbody meeting was convened and elected new board of directors of the third respondent society in which the petitioner also participated and signed in the meeting which was held on 10.7.2016. Subsequent to that, the petitioner has submitted a letter on 12.1.2017 to withdraw the resignation submitted by the petitioner. Petitioner sent communication on 12.1.2017 by informing that the petitioner will continue as directorship of Indian Oil Corporation Employees Co-operative Society. In the aforesaid letter, petitioner has requested to accept the resignation. Now, the petitioner has filed the present writ petition stating that the signature in the resignation letter was forcibly obtained from the petitioner. The petitioner also disputed the meeting which was held on 9.4.2017. The aforesaid facts are disputed with regard to the election conducted for the third respondent society.

6 In the light of the provision under Section 84(2) (c) of the Multi-State Co-operative Societies Act, 2002 and the decision of this Court cited supra, the writ petition is not maintainable. However, liberty is granted to the petitioner to approach the first respondent to raise all the grounds raised in the present writ petition under the provisions of the Act.

7 Accordingly, the writ petition is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
सत्यमेव जयते
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

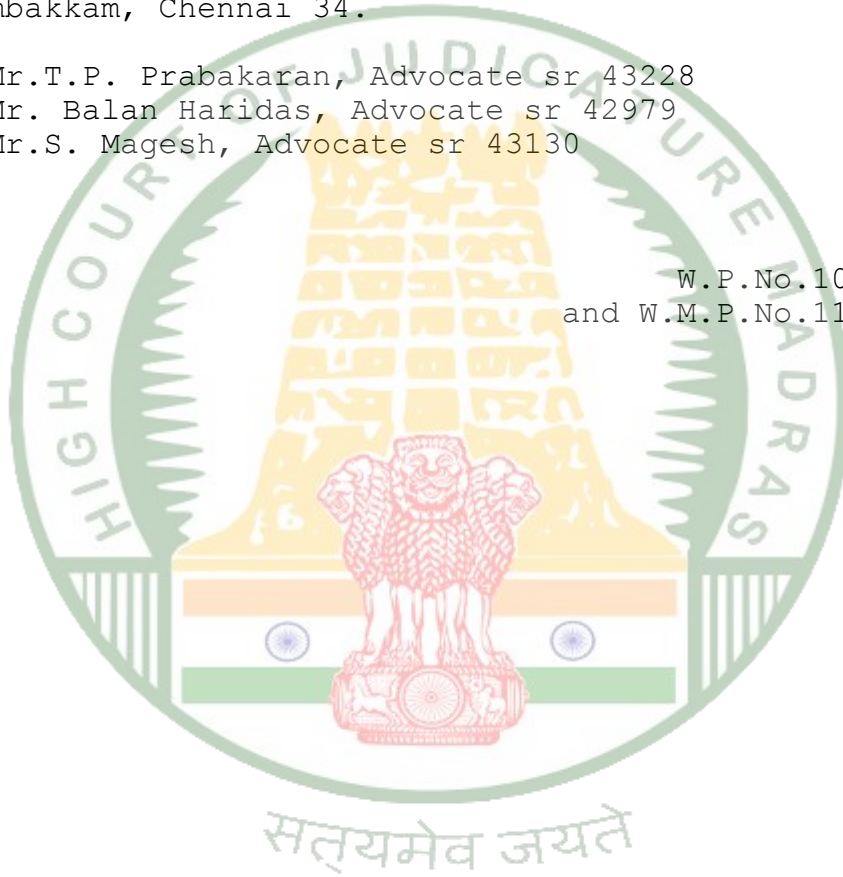
- 1 The Central Registrar of Co-operative Societies (L&M),
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- 2 The Director (Co-operation), Government of India,
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Indian Oil Bhavan,
139, Mahatma Gandhi Road,
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+1 CC to Mr.T.P. Prabakaran, Advocate sr 43228
+1 CC to Mr. Balan Haridas, Advocate sr 42979
+1 CC to Mr.S. Magesh, Advocate sr 43130

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