

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

WP.No.20765 of 2014

K.Ravikumar

...Petitioner

Vs.

1. Central Registrar of Co-operative of Societies, Multi State Credit Societies
Ministry of Agriculture
Department of Agriculture and Co-operation
Krishi Bhavan, New Delhi 110 001.
2. The Regional Joint Registrar of Co-operative Societies,
No.91, St. Mary's Road,
R.A.Puram, Chennai 600 028.
3. The Secretary
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd.
10, 23rd street, Jainagar,
Arumbakkam
Chennai 600 100.
4. K.S.Megavarman
President
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd street, Jainagar
Arumbakkam
Chennai 600 100.
5. M.Kabilan
Vice-President
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
Arumbakkam
Chennai 600 100.

6. K.Jayasankar
Secretary
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
Arumbakkam
Chennai 600 100.
7. N.S.Elango
Director
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
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Chennai 600 100.
8. S.Durai
Director
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
Arumbakkam
Chennai 600 100.
9. V.Subramanian
Director
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
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Chennai 600 100.
10. S.Sangarasubbu
Director
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
Arumbakkam
Chennai 600 100.
- 11.M.Saleem
Director
Thiruvalluvar Transport Corporation Employees'
Co-op. Credit Society Ltd. MSCS/CR/16-91
10, 23rd Street, Jainagar
Arumbakkam
Chennai 600 100.

...Respondents

PRAYER: The Writ petition is filed under the Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to conduct election and monitor the election of the Thiruvalluvar Transport Corporation Employees' Co-operative Society Ltd. as per law.

For Petitioner :Mr.A.R.Nixon
For R1 :Mr.Venkatasamy Babu
Special Government Pleader
For R2 :Mr.V.Selvaraj
Additional Government Pleader

For RR3 & 6 :Mr.T.S.Baskaran
No appearance :R4, 5, 7 to 11

ORDER

The petitioner has filed the writ petition, praying to issue a Writ of Mandamus directing the respondents 1 to 3 to conduct election and monitor the election of the Thiruvalluvar Transport Corporation Employees' Co-operative Society Limited as per law.

2. According to the petitioner, the petitioner made a representation to the first and third respondent on 18.08.2009 stating that the election to the Boards of Directors of the respondent society was not conducted. However, the respondents have not responded to the said representation of the petitioner. Hence, the petitioner filed the writ petition in W.P.No.19428 of 2009 before this Court, praying for a direction to the first respondent to pass orders on the petitioner's application and issue direction to the second and third respondents to conduct the election to the Board of Directors of the Thiruvallur Transport Corporation Employees Co-op Credit Society Limited and the said writ petition is also pending. In spite of that, the respondents have not conducted the election for the past 21 years. Therefore, the petitioner made a request on 07.07.2014 to follow the Rules 25.1, 25.2, 25.3 of the Societies Act. As the said respondent has not considered and the elections were not conducted for the past 21 years, the petitioner filed the present writ petition before this Court for the aforesaid prayer.

3. On the basis of the counter affidavit, the learned counsel appearing for the respondents 3 and 6 would submit that the entire contention of the petitioner is false and incorrect statements have been made before this Court. According to the learned counsel for the respondents 3 and 6, the petitioner has suppressed the material facts and filed the writ petition before this Court. Further the learned counsel for the respondents has specifically brought to the notice of this Court the averments in paragraph 4 of the counter affidavit filed by the third respondent in respect of conduct of election, which reads as under:

"I submit that the period of office of Directors of the Society ended on 20.09.2014. The election for the Society was due on September 2014. As per the Rule 19 of Multi State Co-op. Society Act and also as per Schedule 1(a) of Multi State Co-op. Societies Rules 2002 the meeting of Director of the Society was convened on 25.05.2014. In the meeting held on 25.05.2014, the Board of directs of the Society unanimously decided to convene the General Body Meeting on 27.07.2014 and hold the election for the period of 2014-2019. In the said meeting of Board of Directors, Returning Officer (Election Officer) was also nominated for the conduct of the election. Mr.M.Balachandar, Advocate was appointed as Returning Officer for conducting the election on 27.07.2014. The Returning Officer in accordance with the Section 45 of the Multi State Co-op. Society Act had sent intimation about date, time, and place of the election of the General Body Meeting to each of the members of the Society by Registered Post with acknowledgment due. The Returning Officer in the said notice had clearly stated that the date of election will be on 27.07.2014 and clearly stating the venue of election as the registered office address of the Society. The notice dated 20.06.2014 of the Returning Officer was issued to all the members of the Society. In so far as the petitioner is concerned, notice was received by him on 28.06.2014. Further, publication in Newspaper was also effected. The election notification was affixed in the notice board of the workspot/Depot of the members besides the notice board of the society. By the above said ways, the members were put on notice of the Election in the Annual General Meeting of the Society to be held on 27.07.2014."

4. Therefore, the contention of the petitioner that the election was not conducted for the past 21 years is totally incorrect and false. In view of the above statement, the writ petition is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner as well as the respondents and perused the materials on records.

6. The grievance of the petitioner in the present writ petition is that the respondent has not conducted the election for the past 21 years for the third respondent society. The present writ petition has been filed for a direction to conduct the election for the third respondent society.

7. The third respondent society filed the counter affidavit and details of the elections have been furnished in the paragraph 4 and 7 of the counter affidavit. In the paragraph extracted supra, it is clearly stated that the Returning Officer issued notice to all the members of the society including the petitioner and the said notice was received by the petitioner on 28.06.2014 and the paper publication was also effected by the respondent society. Though the petitioner had knowledge of the election process, without disclosing this fact and filed the present writ petition before this Court and the same is liable to be dismissed for non disclosure of the material facts.

8. Further as contented by the learned counsel for the third respondent, pursuant to the election notice, election was conducted and elected body has also assumed charge from 2014. Therefore, there is nothing to adjudicate in the writ petition and the same is liable to be dismissed. Under the facts and circumstances of the case, I do not find any prima facie case is made out by the petitioner in this writ petition and in view of the fact that the petitioner has filed vexatious writ petition, it is appropriate to impose cost against the petitioner. Accordingly, the writ petition is dismissed with costs Rs.2,000/-, payable by the petitioner to the Tamilnadu Mediation and Conciliation Centre, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS III)

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//True Copy//

Sub Assistant Registrar

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To

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Ministry of Agriculture
Department of Agriculture and Co-operation
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Chennai 600 100.
12. The Assistant Registrar
Tamil Nadu Mediation and Conciliation Centre
High Court Campus Madras

+1 cc to Mr.A.R.Nixon Advocate sr 46360
+1 cc to M/s.Venkataswamy babu Advocate sr 46330
+1 cc to M/s.T.S.Baskaran Advocate sr 46183
+1 cc to Government Pleader sr 46570

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