

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2017

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16132 of 2017 and
WMP.Nos.17423 and 17424 of 2017

Dr.S.S.Rajasekaran

... Petitioner

Vs.

1. The Joint Secretary to the Government of India,
Central Registrar of Co-operative Societies,
Ministry of Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi.
2. The Registrar of Co-operative Societies
Government of Tamil Nadu
N V N Maligai,
No.170 Periyar EVR High Road
Kilpauk,
Chennai-600 010.
3. The Secretary
Indian Medical Practitioners Co-operative
pharmacy and stores Limited,
Thiruvanniyur,
P.B.No.8602 .
Chennai -600 041
4. The Returning Officer,
Election for the Board of Directors of the Indian
Medical Practitioners Co-Operative
pharmacy and Stores Limited,
Thiruvanniyur,
P.B.No.8602,
Chennai -600 041.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the election general body meeting notice dated 07.06.2017 bearing reference No.G.B.M.1(B) 2017-2018 issued by the 4th respondent and quash the same.

For Petitioner : Mr.J.R. Prabhakaran,

For R1 : Mr. A. Veeramani,
Central Government
Standing Counsel,

For R2 : Mr.V.Selvaraj,
Additional Government Pleader

ORDER

According to the learned counsel for the petitioner, the petitioner is a member of the Indian Medical Practitioners' Co-operative Pharmacy and Stores (Multi-State Co-operative Society) Limited, Chennai / third respondent society. The main object of the society is to protect the welfare of the members of the society and to supply medicine to the members of the society at discounted rates. The society is governed by its bye-laws subject to the provisions of the Multi-state Co-operative Societies Act, 2002. General Body Meeting is convened once in a year and election to the Board will be held once in five years. While the earlier election was conducted during the year 2012, the present election is scheduled to be conducted on 02.07.2017. The last general body meeting was conducted during 2016 in which there was no proper quorum. In spite of objection raised by a few members, the meeting was conducted. According to the bye-laws, a member who does not attend three consecutive meetings, would certainly lose his membership and eligibility to cast his vote. But, clause 7 of the bye-laws of the society was amended condoning the absence of the members who did not attend consecutive meetings. The petitioner received the impugned notice dated 07.06.2017 issued by the Secretary, in which it was noted that the general body meeting would be held on 30.06.2017 at 10.00 a.m. and the nomination papers would be received between 12.00 p.m. and 01.00 p.m. and nomination papers would have been scrutinised at 04.00 p.m. and between 04.00 p.m. and 05.00 p.m, candidates would be allowed to withdraw the Nomination papers and at 06.00 p.m., final list of valid candidates would be declared i.e. on the same day. The election would be held on 02.07.2017. It is also stated that the same notice had been issued to all the members of the society. Pursuant to the same, the petitioner approached the third respondent and sought for a copy of the list of eligible members. In the list, the petitioner found that the name of the many of the present members had been omitted, while the names of several members who are no more are present. Even the names of some persons who are not members in the Society, had been included in the final electoral roll for the year 2017. Hence,

the petitioner has filed this writ petition before this Court challenging the notice issued by the fourth respondent pertaining to the election to the General Body Meeting of the third respondent society.

2. The learned counsel for the petitioner would submit that the final electoral roll for the election 2017 is not properly prepared by the third respondent.

3. Heard, both sides and perused the materials available on record.

4. The agenda in the election to the General Body Meeting Notice would show that the Election of Board of Directors for 16 constituencies would be conducted as per the circular enclosed therewith. But, the petitioner has challenged merely the said notice. According to the petitioner, it is a fact that the circular has been issued by the fourth respondent for the Election of Board of Directors, Indian Medical Practitioners' Co-operative Pharmacy and Stores (Multi-State Co-operative Society) Limited, Chennai. The election programme has been announced by the fourth respondent.

5. In the light of the decision of the Hon'ble Supreme Court in the case of Election Commission of India Vs. Ashok Kumar and others reported in 2000 (8) SCC 216 and in view of the unreported Judgment made by the Division Bench of this Court in Jayaraj Vs. The Chief Electoral Officer of Tamil Nadu and others in W.P.No.17608 of 2016 dated 06.05.2016, the writ petition cannot be entertained. Further, in the present writ petition, the petitioner is challenging the impugned agenda passed by the fourth respondent without challenging the election schedule issued by the fourth respondent. Therefore, the writ petition challenging the said notice before this Court is not maintainable for want of prima-facie case. Hence, the present writ petition is liable to be dismissed. However, the petitioner being a member of the Society has any grievance in the preparation of the final electoral roll, the petitioner has to approach the competent authority under the provisions of the Act.

6. In view of the above said facts and circumstances of the case, the writ petition is liable to be dismissed. Accordingly, writ petition is dismissed with liberty to the petitioner to approach the concerned authority, if so advised,

for the grievances set out in the present writ petition. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Secretary to the Government of India,
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Ministry of Agriculture,
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New Delhi.
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+1cc to Mr.J.R. Prabhakaran, Advocate, S.R.No.44803

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SKV(CO)
CS/30/06/17