

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

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THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.16574 of 2017

and

W.M.P.Nos.17941 & 17942 of 2017

Dr.S.Bose

..Petitioner

Vs.

1. The Joint Secretary to the Government of India and Central Registrar of Co operative Societies, Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, Krishi Bhavan, New Delhi.
2. The Indian Medical Practitioners' Cooperative Pharmacies and Stores, Multi-State Co-operative Society, X185, Represented by its Secretary, No.34 to 37,Kalki Krishnamurthi Salai, Thiruvanmiyur, Chennai- 600 041.
3. Dr.Ponsingh, Secretary In-Charge, Indian Medical Practitioner's Cooperative Pharmacies and Stores, Multi-State Co-operative Society, X185, No. 34 to 37,Kalki Krishnamurthi Salai, Thiruvanmiyur,Chennai- 600 041
4. A.Govindasamy MA.BL (Advocate), Returning Officer, Indian Medical Practitioners' Cooperative Pharmacies and Stores, Multi-State Co-operative Society, X185, No.34 to 37,Kalki Krishnamurthi Salai, Thiruvanmiyur, Chennai- 600 041

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records relating to 4th respondent vide his paper publication dated 01.05.2017, 30.05.2017 and 15.06.2017. Election Notice advertising and publication of Electoral Roll and conducting of elections to the various post for the 1st respondent's board and to quash the same and directing the 1st respondent to appoint a special officer and conduct elections to the 2nd respondent's society after call for objections to the electoral roll and prepare a final electoral roll to the society.

For Petitioner : Mr.L.Chandrakumar
Mr.S.Sundarajan

ORDER

The petitioner has filed the present writ petition before this Court challenging the fourth respondent's paper publication dated 01.05.2017, 30.05.2017 and 15.06.2017.

2. According to the petitioner, an election notification dated 11.05.2017 was advertised in Hindu dated 11.05.2017 which claimed that the Board of Directors of IMPCOPS have appointed fourth respondent as returning officer to conduct election to the Board of IMPCOPS in the general meeting to be convened on 30.06.2017 at the headquarters premises and if there is contest, a secret polling will be held on 02.07.2017 and a separate meeting notice will be sent to all the members by post in this connection and further, in view of the above, the draft electoral roll will be kept for verification from 11.05.2017 onwards, at the head Office and branch officers/sales depots of IMPCOPS and all the members were requested to use the opportunity and verify the draft electoral rolls and file their objections and corrections if any on or before 22.05.2017 and final list of electoral rolls will be published on 30.05.2017. But, the electoral roll was not available as stated in the advertisement. Hence, the petitioner made a representation to the fourth respondent to furnish draft electoral voters list so as to raise objections in this regard. But the fourth respondent refused to receive the same and also not available to meet the members of the Society. Further, the election notice issued by the Secretary in-charge through the fourth respondent does not have any details of the election or any schedule and would state that the same came to be issued by the order of the board and further the person concerned who has issued the notice is being faced with serious clout of his neutrality in conducting proceedings and other infraction of statutory obligations called upon him by stating that the issue being

seized off by the Hon'ble High Court and pending consideration. The fourth respondent has sent a reply on 03.06.2017 refuting the allegations and claims that the petitioner is not the member of the society and further claims that the electoral roll has been published in the General Body Meeting notice dated 01.06.2017. The petitioner claims that the fourth respondent has not issued any election schedule and he has issued only public notice on 30.05.2017 and not on 01.06.2017 as claimed. Hence, the petitioner is challenging the notices issued by the fourth respondent by stating that the election should not be conducted on 02.07.2017 without finalising electoral roll. Further, the learned counsel for the petitioner would submit that the fourth respondent had requested the members to verify the draft electoral rolls and file objections, if any, on or before 22.05.2017. As the same was not made available to the members, the petitioner made a representation on 22.05.2017 to the fourth respondent alleging that the returning officer has not furnished such draft electoral rolls. The specific averments made by the petitioner is, in spite of the said allegation made by the petitioner, the returning officer without furnishing a copy of the electoral roll is proceeding with the election process of the second respondent society. Therefore, the petitioner has filed the present writ petition.

3. On perusing the affidavit, it is clear that the petitioner has not produced any material before this Court to show that the petitioner is a member of the Society. Secondly, the petitioner has approached this court only after receipt of the reply dated 03.06.2017 from the fourth respondent which is not an earlier stage. The election for the second respondent board is under process. Therefore, at this stage, the writ petition cannot be entertained on the ground that the petitioner has approached this court belatedly, particularly under Article 243 k of the Constitution of India where reads as follows.

"No election to any municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State"

4. Further, in the light of the decision of the Hon'ble Supreme Court in the case of the Election Commission of India Vs. Ashok kumar and others reported in (2000) 8 SCC p 216, the present case is concerned, this court is not inclined to interfere at this stage. Further, the petitioner having alternative efficacious alternative remedy to file an election petition before concerned authority. The petitioner has not placed any specific allegation and any material before this court and only general averments are found in the affidavit. These are disputed fact only, which could be agitated before the

competent authority. Prima facie case is not made out.

5. The writ petition is dismissed as not maintainable with liberty to the petitioner to approach the authority concerned for the relief sought for in the 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 and Central Registrar of Co operative Societies, Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, Krishi Bhavan, New Delhi.

2. The Secretary, The Indian Medical Practitioners' Cooperative Pharmacies and Stores, Multi-State Co-operative Society, X185, No.34 to 37, Kalki Krishnamurthi Salai, Thiruvananthapuram, Chennai- 600 041.

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