

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

WP.No.16579 of 2017 and
WMP.Nos.17948 and 17949 of 2017

K.Aruna Devi

...Petitioner

Vs.

1. The Registrar of Cooperative Societies,
"NVN" Maligai,
No.170, EVR Periyar Salai,
Kilpauk, Chennai-10
2. The Deputy Registrar of Cooperative Society /
District Election Officer,
Cooperative Society Complex,
Mohankumaramangalam Salai,
Soorampatti, Erode-638009
3. Electoral Officer,
P.E.Modakuruchi Circle Teachers and Public
Servant Co-operative Thrift and
Credit Society
Modakuruchi Taluk,
Erode District.
4. The Secretary,
P.E.Modakuruchi Circle Teachers and Public
Servant Co-operative Thrift and
Credit Society
Modakuruchi Taluk,
Erode District.

... 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 pertaining to issuance of Election Notification dated 19.06.2017 published by second respondent in "Dinamalar Newspaper" on 19.06.2017 and quash the same and consequently direct the third respondent to finalize the Voter

list of the fourth respondent society as per the Rule 52 (5) (b) (i) (B&) (C) of Tamil Nadu Cooperative Rules, 1988.

For Petitioner :Mr.Raja Rajan
For R1 :Mr.V.Selvaraj
Additional Government Pleader

ORDER:

According to the petitioner, the petitioner is a member in the fourth respondent Cooperative Society. During May 2013, an election was conducted and Board of Office Bearers were elected to the fourth respondent society. For some reason, the board was dissolved by the second respondent on 07.10.2016. Thereafter, an Administrative Officer was appointed to look after the administration of the Society. While so, the second respondent by notification dated 19.06.2017 published in "Dinamalar News Paper", announced election to the Society to elect its Office Bearers, that contained details of date of nomination, date of scrutiny, date of publishing of eligible candidates, date of withdrawal of nomination, finalising the candidate list, polling date and counting date. The Electoral Officer / third respondent was appointed to scrutinise eligible voters. While the notification did not spell anything about finalising voters list, the second respondent hurriedly pursuing with the election even without finalising the same. As most of the members do not have eligibility to vote in the election, it is impertinent to finalise nomination without finalising voters list. The petitioner also made representation on 24.06.2017 to the third respondent making objection regarding voters list, but so far, no action has been taken. Later, the voters list published by the third respondent on 27.06.2017 contains names of many members who are ineligible to vote. Hence, challenging the impugned election notification dated 19.06.2017, the petitioner has filed the writ petition.

2. The learned counsel for the petitioner contends that the said notification has been issued by the second respondent without following the procedure as contemplated in the bye-laws of the Cooperative Societies Rules. Hence, the petitioner has filed the present writ petition.

3. The learned Additional Government Pleader takes notice for the first and second respondent.

4. On perusal of the typed set of papers filed by the petitioner, it is observed that the second respondent by notification dated 19.06.2017 published in "Dinamalar News Paper" announced election to the Society to elect its Office Bearers, that contained details of date of nomination, date of scrutiny, date of publishing of eligible candidates, date of

withdrawal of nomination, finalising the candidate list, polling date and counting date. Then, the petitioner made representation on 24.06.2017 to the third respondent making objection regarding voters list published by the third respondent. Meanwhile, the voters list was published by the third respondent on 27.06.2017, alleged to have contained names of ineligible members.

5. It is clear that the petitioner has approached this Court when the election is commenced as per notification process. At this juncture, it is relevant to observe an extract of a decision rendered by the Hon'ble Supreme Court in the case of Election Commission of India Vs. Ashok Kumar and others reported in 2000 (8) SCC 216 which reads as follows.

1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in election.

6. It is well settled law that there is an alternative remedy available under the provisions of the Act, the writ jurisdiction under Article 226 of the Constitution of India should not be invoked. Therefore, in the light of the decision cited supra, the petitioner having efficacious alternative remedy, can raise all the issues before the appropriate forum as provided under the Act.

7. In view of the facts and circumstances of the case and in the light of the Judgment of Hon'ble Supreme Court stated supra, at this stage, the writ petition is not maintainable.

8. The writ petition is dismissed with liberty to the petitioner to approach before the concerned authority as contemplated under the provisions of law, if so advised. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

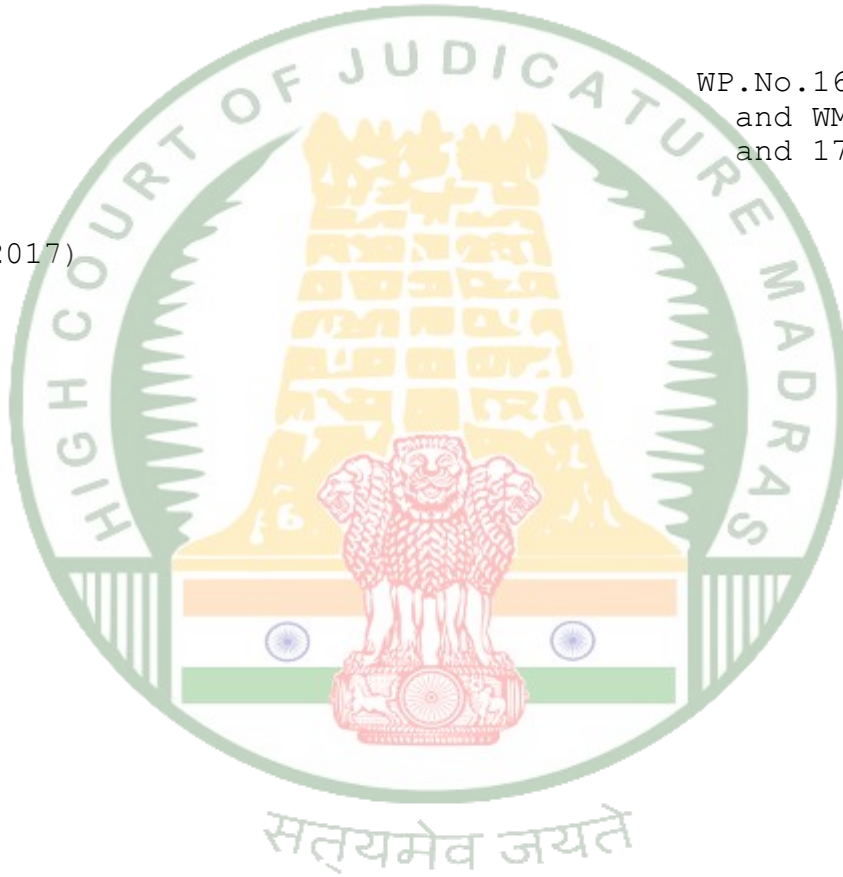
To

1. The Registrar of Cooperative Societies,
"NVN" Maligai,
No.170, EVR Periyar Salai,
Kilpauk, Chennai-10

+lcc to Mr.E.P.Senniyangiri, Advocate SR.No.46074
+lcc to Mr.L.P.Shanmugasundaram, Advocate SR.No.46190
+lcc to Government Pleader, SR.No.46563

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VGII (CO)
GN (05/07/2017)



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