

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 28165 of 2015
and
M.P.No.1 of 2015

R. Mallan

..Petitioner

Vs.

1.The Additional Registrar of
Co-operative Societies (Elections)
Kilpauk, Chennai-10

2. The Deputy Registrar of
Co-operative Societies
Dharmapuri District.

3. Thiru N. Mariappan

4. Thiru M. Chinnasamy

5. Tmt. N. Indirani

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the second respondent in Na.Ka. No.5003/2015/Sa.Pa dated 25.08.2015 and quash the same and consequently direct the respondents 1 & 2 to conduct election to the three post of Board of Directors treating the respondents 3 to 5 as disqualified members in terms of section 34 of the Tamil Nadu Cooperative Societies Act, 1983 and pass such further orders.

For Petitioner : Mr. S. Kamadevan

For Respondents : Mr. V. Selvaraj

Addl.Govt.Pleader for R1 & R2

Mr. C. Munusamy for R3

O R D E R

This writ petition has been filed challenging the orders passed by the 2nd respondent in Na.Ka. No.5003/2015/Sa.Pa dated 25.08.2015 and consequently direct the respondents 1 & 2 to conduct election to the three post of Board of Directors treating the respondents 3 to 5 as disqualified members in terms of section 34 of the Tamil Nadu Cooperative Societies Act, 1983.

2. The learned counsel for the petitioner would submit that the petitioner is the elected President of the Society and the respondents 3 to 5 are the Board of Directors. The aforesaid Directors were disqualified under Section 34 of the Tamil Nadu Co-operative Societies Act, 1983 since they did not attend several meetings. According to the petitioner, due to their disqualification, they cease to continue as Directors. Hence, a request was submitted to the 2nd respondent to conduct elections to fill up those vacancies of Directors. But, the said request was rejected by the 2nd respondent on the ground that the decision of disqualification of the respondents 3 to 5 has been taken without proper quorum. Therefore, the present writ petition has been filed seeking the aforesaid prayer.

3. Learned Additional Government Pleader would submit that the disqualification of the 3 Directors, namely respondents 3 to 5 was not accepted, since there is no power for the President of the Society to disqualify the Directors of the Board, under Section 34(2) of the Act. Hence, the request to conduct the election for the vacancies on the basis of disqualification order passed by the petitioner has been rightly rejected by the authorities concerned. The competent authority for disqualification is the 2nd respondent, under the Act. Hence, seeks to dismiss the writ petition.

4. In view of the submissions made by the parties, it is made clear that the respondents 3 to 5 have not been disqualified, under the procedure contemplated by the By-laws and Rules, specifically under Rule 61 of the Tamil Nadu Co-operative Societies Rules 1988.

5. In the light of the said provisions, the Deputy Registrar of Cooperative Societies is the competent authority to disqualify the office bearers and the Directors of the Society. Hence, the disqualification of the three Directors under Section 34 of the Rules and the removal of Directors by the petitioner, is not in accordance with the provisions of the Act, since the President is not the competent authority to disqualify the Directors, as provided in the Rules. Therefore, there is no infirmity or illegality in the order passed by the 2nd respondent, rejecting the contention of the petitioner.

6. Therefore, the Writ Petition is dismissed.
Consequently, the connected M.P is closed. No costs.

Avr

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

1. The Additional Registrar of
Co-operative Societies (Elections)
Kilpauk, Chennai-10
2. The Deputy Registrar of
Co-operative Societies
Dharmapuri District.

+1 CC to the Government Pleader Sr.No. 53002

W.P. No. 28165 of 2015
and
M.P. No.1 of 2015

GJ II (CO)
MLT 15/11/2017



WEB COPY