

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

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THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.18126 of 2017 and  
WMP.Nos.19666 &19667 of 2017

S.Balakrishnan

..Petitioner

Vs.

1. The Deputy Registrar / Election Officer,  
Milk Production, Old Nattamai Building,  
Salem 636 001.

2. S.620, The Kumarasampatty Milk Producers  
Cooperative Society Limited,  
Represented by its Secretary,  
Salem-7

3. S.John Kennady,

4. M.Selvaraj

5. R.Balasubramanian

6. C.Duraisamy

7. Sivashankar

8. R.Thilagam

9. K.Chandran

10. Nallathambi

11. R.Tamilsevi

(The respondents 4 to 11 are Directors of  
S.620, The Kumarasampatty Milk Producers  
Cooperative Society Ltd.,  
Salem-7)

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records with respect of the impugned resolution passed by the respondents 3 to 11 dated 03.04.2017 and consequent election proceedings of the first respondent herein dated 19.06.2017 and quash the same.

For Petitioner : Mr.R.Nalliyappan  
For R1 : Mr.V.Selvaraj,  
Additional Government Pleader

For R2 : Mr.L.P.Shanmugasundaram,  
Special Government Pleader

ORDER:

According to the petitioner, the petitioner is the President of the second respondent society. With the motive of removing the petitioner from the post of the President, the respondents 3 to 8 sent a notice to the first respondent on 28.11.2016 saying that the petitioner had received a sum of Rs.50,000/- from the candidates who underwent training under the society. Subsequent to that, a resolution was passed on 28.11.2016 to remove the petitioner from the post of President and handover the same to the third respondent, against which the petitioner filed a writ petition. Pending disposal of the writ petition, the respondents 3 to 8 issued a notice dated 27.02.2017 to the first respondent to remove the petitioner from the post of President for the reasons of bribery and others. With regard to the notice, the first respondent sent a notice to the petitioner seeking explanation and the same was submitted by the petitioner on 21.03.2017. After receiving the explanation, the first respondent issued another notice dated 28.03.2017 stating that a special meeting would be convened on 03.04.2017 pertaining to the request of the respondents 3 to 8. On receiving the notice, the petitioner by letter dated 31.03.2017 requested to call off the special meeting. But, without considering the petitioner's request, on 03.04.2017, the resolution was passed by the respondents 3 to 11 to remove the petitioner from the post of President. Further, without following due procedure, an election has been conducted on 23.06.2017 and the third respondent has been elected as the President. Hence, the petitioner has filed this writ petition.

2. According to the learned counsel for the petitioner, the resolution passed on 03.04.2017 has violated the period of limitation as fixed under Rule 62(3) of the Tamil Nadu

Cooperative Societies Rules, 1988 and the conduction of election for the post of President is not followed by the election procedure. Hence, challenging the resolution passed by the respondents 3 to 11 on 03.04.2017 and the consequent election proceedings of the first respondent dated 19.06.2017, the petitioner has filed this writ petition before this Court.

3. The learned Additional Government Pleader would submit that the prayer sought against the above Cooperative Society is not maintainable in view of the full bench judgment made in K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689. Hence, the writ petition is liable to be dismissed. Further, if the being aggrieved by the above resolution, the petitioner can approach the appropriate forum for the remedy.

4. Heard, the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent.

5. From the above, at first, the petitioner's challenging the resolution dated 03.04.2017 passed by the Directors of the Society is not maintainable in the light of the full bench judgment as cited supra. Secondly, the impugned resolution passed on 03.04.2017 has been challenged by the petitioner nearly three months later and so, the writ petition is not maintainable in this aspect as well. Further, as rightly pointed out by the learned Additional Government Pleader, the petitioner being aggrieved by the above resolution, can approach the appropriate forum to work out his remedy.

6. The writ petition is dismissed as not maintainable and liberty is granted to the petitioner to agitate the same before the appropriate forum, if so advised. Consequently, connected miscellaneous petitions are closed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar / Election Officer,  
Milk Production, Old Nattamai Building,  
Salem 636 001.

2. The Secretary,  
S.620, The Kumarasampatty Milk Producers  
Cooperative Society Limited,  
Salem-7.

+1 cc to Mr.R.Nalliyappan Advocate sr 50087

+1 cc to M/s.L.P.Shanmugasundaram Advocate sr 50316

+1 cc to the Government Pleader sr 51038

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