

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.8037 and 8038 of 2018
and
W.M.P.Nos.10011 and 10012 of 2018

M.Sri Siva Kumar ... Petitioner in W.P.No.8037/2018

S.Siva Kumar ... Petitioner in W.P.No.8038/2018

.. Vs ..

1. The Election Commissioner,
Tamil Nadu State Co-operative Societies
Election Commission,
No.273, Kamadhenu Supermarket,
1st Floor, Anna Salai,
Chennai - 600 018.
2. The Election Officer,
FMC, Society No.5, Fisherman Co-operative Society,
No.80, 'M' Block,
V.O.C. Nagar, Tondiyarpuram,
Chennai - 600 081. ... Respondents in W.P.No.8037/2018

1. The Election Commissioner,
Tamil Nadu State Co-operative Societies
Election Commission,
No.273, Kamadhenu Supermarket,
1st Floor, Anna Salai,
Chennai - 600 018.
2. The Election Officer,
FMC, Society No.236, Fisherman Co-operative Society,
78, 4th Block, Powerkuppam,
Royapuram, Chennai - 600 013
Chennai District. ... Respondents in W.P.No.8038/2018

Prayer in W.P.No.8037 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the second respondent to receive the nomination of the petitioner in the valid candidates' list and include the petitioners' name as a candidate if otherwise found eligible and then only to proceed to conduct the election for the Board of Directors of the second respondent Society on 09.04.2018 and then only to proceed to conduct the election for the Board of Directors of the second respondent Society without rejecting the petitioner's nomination.

Prayer in W.P.No.8038 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the second respondent to receive the nomination of the petitioner in the valid candidates' list and include the petitioners' name as a candidate if otherwise found eligible and then only to proceed to conduct the election for the Board of Directors of the second respondent Society on 09.04.2018 or any other subsequent date the first respondent schedules the nomination date for the election of Directors of the second respondent society and then only to proceed to conduct the election for the Board of Directors of the second respondent Society without rejecting the petitioner's nominations.

In both W.Ps.

For Petitioners: Mr.N.Chandra Raj
For R-1 : Mr.M.S.Palanisamy,
Standing Counsel
For R-2 : Mr.P.H.Aravindh Pandian,
Additional Advocate General
Assisted by Mr.L.P.Shanmugasundaram
Special Government Pleader

COMMON ORDER

The petitioners claim to be the Members of the second respondent Co-operative Society. Hence, they are eligible voters of the said Society and also entitled to contest in the election for the post of Directors. While so, the Tamil Nadu Co-operative Election Commission has announced the election to elect the Directors of Board for all co-operative societies in the State of Tamil Nadu on 12.03.2018. Since the election is going to be conducted for 7 Directors in the third stage i.e., on 09.04.2018, nomination papers are to be filed on 09.04.2018 between 10.00 a.m. and 5.00 p.m. The petitioners have been advised that there may be some law and order problem at the time of filing of the nomination papers. Hence, they have approached this Court seeking a writ of mandamus directing the second

respondent to receive the nomination papers as their names also have been found in the voters list.

2. Learned counsel appearing for the petitioners submitted that to avoid any untoward incident that might take place from the date of filing of the nomination papers till the date of declaration of results on 16.04.2018, a direction may be given to the respondents to take video coverage of the entire incident that is going to take place from the date of filing of the nomination papers till the date of declaration of results either at the cost of the Society or at the cost of the petitioners which will not cause any prejudice and that would ensure free and fair election conducted.

3. Mr.M.S.Palanisamy, learned Standing Counsel appearing for the first respondent submitted that if a direction is given to all the Co-operative Societies to install CCTV Camera without knowing whether the said Societies are having financial back up to meet out all these expenditures, some of the 'C' and 'D' class societies, which are not making any profits, would be put to serious problem. Therefore, a direction may be issued to the respondents to have the installation of CCTV Cameras, if they are making comfortable profits.

4. Mr.P.H.Aravindh Pandian, learned Additional Advocate General Assisted by Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the second respondent submitted that since the second respondent Society is coming under 'D' class and always facing financial crisis without cumulative loss for long number of years, if the petitioners come forward to meet out the expenditures for fixing CCTV Camera from the date of filing of the nomination papers till the date of declaration of results, the second respondent will not have any objection.

5. Learned counsel appearing for the petitioners also accepting the said proposal submitted that the petitioners will be prepared to meet out the expenditures for taking video coverage of the entire process during the election process. Since the petitioners themselves volunteer to meet out the expenditures towards taking video coverage of the entire election process from the date of filing of the nomination papers till the date of declaration of results, this Court directs both respondents 1 and 2 to permit the petitioners to take video coverage of the entire incident. When the prayer of the petitioners that a direction should be given to the respondents to receive their nomination papers is taken up, the learned Special Government Pleader appearing for the second respondent submitted that it is premature for the petitioners to approach this Court with the aforesaid prayer, when there would not be any such problem for filing their nomination papers and

on receipt of the same by the second respondent, if they are found eligible.

6. Learned counsel appearing for the petitioners referring to the paper cutting enclosed at page No.18 of the typed set of papers submitted that since an untoward incident had already taken place in V.O.C. Nagar, Washermenpet Co-operative Society and to defuse the situation, since the Deputy Commissioner of Police of Washermenpet intervened, there is every possibility for the same incident taking place in the second respondent Society on the date of filing of the nomination papers.

7. Mr.P.H.Aravindh Pandian, learned Additional Advocate General Assisted by Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the second respondent after taking instruction from the Officer, who is present in the Court, fairly submitted that it is a fit case where the Court can order police protection, since the officers are also expecting some helping hand from the police.

8. Recording the said statement made by the learned Additional Advocate General, the Inspectors of Police, N.2 and N.4 Kasimedu Police stations, are hereby directed to provide sufficient police protection to the second respondent Society during the period commencing from the date of filing of the nomination papers till the date of declaration of results.

9. With the above direction, both these Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

Jrl

To

1. The Election Commissioner,
Tamil Nadu State Co-operative Societies
Election Commission,
No.273, Kamadhenu Supermarket,
1st Floor, Anna Salai,
Chennai - 600 018.

2. The Election Officer,
FMC, Society No.5, Fisherman Co-operative Society,
No.80, 'M' Block,
V.O.C. Nagar, Tondiyarpet,
Chennai - 600 081.
3. The Election Officer,
FMC, Society No.236, Fisherman Co-operative Society,
78, 4th Block, Powerkuppam,
Royapuram, Chennai - 600 013
Chennai District.

+2cc to Mr.N.Chandra Raj, Advocate SR.No.26057
+2cc to Mr.N.Chandra Raj , Advocate SR.No.26058
+1cc to Government Pleader Advocate SR.No. 26412

W.P.Nos.8037 & 8038 of 2018

RR(CO)
GN(07/05/2018)



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