

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.8176 and 8177 of 2018
and W.M.P. Nos.10165 and 10166 of 2018

M.Gunasekar
Malliga

.. Petitioner in W.P. No.8176 of 2018
.. Petitioner in W.P. No.8177 of 2018

Versus

1.The Deputy Registrar of
Co-operative Society,
Sankaranpalayam,
Vellore District, Vellore.

2.The Election Officer, C-2511,
Eda Krishnapuram
Primary Agricultural Co-operative
Credit Society Limited,
Eda Krishnapuram Village,
Vellore District, Vellore.

... Respondents in both petitions

Prayer in both petitions: Petitions filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to include the petitioners name in the voter list published by the second respondent in C.2511, Eda Krishnapuram Primary Agricultural Co-operative Credit Society Limited, Eda Krishnapuram Village, Vellore District to enable the petitioners to participate in the election of the above said Society.

For Petitioners : Mr.D.Rajagopal

For Respondents : Mr.L.P.Shanmugha Sundaram,
Special Government Pleader for R1
Mr.M.S.Palanisamy,
Standing Counsel for R2

COMMON ORDER

The writ petitions have been filed with a prayer for issuance of writ of mandamus directing the respondents to include the petitioners name in the voter list published by the second respondent in C.2511, Eda Krishnapuram Primary Agricultural Co-operative Credit Society Limited, Eda Krishnapuram Village, Vellore District to enable the petitioners to participate in the election of the above said Society.

2.Learned counsel appearing for the petitioners would submit that the election notification was issued by the second respondent on 28.03.2018 to conduct election on 16.04.2018 and a membership list was also published on the same day i.e. 28.03.2018 wherein the name of the petitioners were found. Subsequently when the voters list was published in the notice board of the Society on 02.04.2018, the name of the petitioners were not found in the voters list. Immediately, the petitioners gave representation on 03.04.2018 to the Deputy Registrar of Co-operative Societies with a request to include their names in the voter list. Finding no response, they gave a requisition letter to the second respondent to include their names in the voter list. Learned counsel for the petitioner would further submit that the petitioners having suffered orders dated 16.12.2015 and 17.12.2015 passed under Section 87 of the Tamil Nadu Co-operative Societies Act, filed Appeals

before the Co-operative Appellate Tribunal, Vellore in C.T.A. Nos.20 and 21 of 2016 which are pending. While so, the respondents cannot refuse to receive the nomination papers from the petitioners.

3. Referring to Rule 51(A), learned counsel for the petitioners would submit that the members of the board who are not otherwise disqualified to vote at, or stand for, any election in accordance with the provisions of the Act, or these Rules, shall be eligible to vote at or stand for any election to the society. While this is so, as the respondents till date have not passed any order dis-qualifying the petitioners, they should have right to participate in the election.

4. Learned Special Government Pleader appearing for the first respondent submitted that the petitioners while serving as Vice President and President of the second respondent society, have suffered surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act and as against the same, they preferred appeals before the Co-operative Appellate Tribunal which are pending. Therefore, as per Section 34(5)(b) of the said Act which is given as under, they are not entitled to take part in the election or nomination to the board. It is pertinent to extract Rule 34(5)(b) of the said Act:

(b)No member of a board in respect of whom proceeding under Section 87 is pending and no member of a board in respect of which proceeding under Section 88 is pending, shall be eligible for election or nomination to the board till the termination of such proceeding.

5.A mere perusal of the above provision, a member of the board who is facing surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, even if it is pending, is not entitled originally in participating the election till the termination of such proceedings. Admittedly, the petitioners have suffered orders dated 16.12.2015 and 17.12.2015 and as against the same they have also preferred two appeals as mentioned above. Therefore, this Court finds no merit in these petitions and the same are dismissed. No costs. Consequently, connected W.M.Ps are also dismissed.

vga

09.04.2018

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To

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Co-operative Society,
Sankaranpalayam,
Vellore District, Vellore.

2.The Election Officer, C-2511,
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Primary Agricultural Co-operative
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T.RAJA,J.

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