

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8315 of 2018
and W.M.P.No.10284 of 2018

C.Chellappan

.. Petitioner

-VS-

1.The Election Commissioner,
Tamil Nadu Co-operative Societies
Election Commission,
No.273, Kamathenu Cooperative Stores,
Anna Salai, Chennai - 600 018.

2.The Election Officer,
Tamil Nadu Co-operative Societies
Election Commission,
No.273, Kamathenu Cooperative Stores,
Anna Salai, Chennai - 600 018.

3.No.J.C.2340 Madhuranthagam Primary
Co-operative Agricultural and
Rural Development Bank,
Rep. by its Special Officer,
Hospital Road,
Madhuranthakam - 603 306
Kancheepuram District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the third respondent to include the petitioner's name in the voters list to permit him to contest the election to the post of Director to the 3rd respondent society election to be held on 16.04.2018 by furnishing the nomination form.

For Petitioner :: Mr.Pitty Parthasarathy

For Respondents :: Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader for R2 & R3
Mr.M.S.Palanisamy
Standing Counsel for R1

ORDER

This writ petition has been filed by Mr.C.Chellappan, who is a member of the third respondent society seeking mandamus directing the third respondent to include his name in the voters list and permit him to contest election to the post of Director in the Society to be held on 16.04.2018.

2. The learned counsel appearing for the petitioner has submitted that the third respondent is a Primary Co-operative Agricultural and Rural Development Bank comes within the provisions of Tamil Nadu Co-operative Societies Act, 1988. The election notification was issued on 26.03.2018, inviting applications from the members for the post of Director, President and Vice-President. On 02.04.2018, when they released the final voters list, the name of the petitioner was not found therein. Thereafter, the petitioner enquired with the Officials of the third respondent. He was informed that he has obtained a loan on 14.07.2014 under Jewell Loan No.8792 and as he has not paid the entire loan amount, he became defaulter and therefore, he was ineligible and disqualified to contest in the forthcoming election.

3. The learned counsel appearing for the petitioner has further submitted that much prior to the date of release of the voters list, he had repaid the entire loan amount on 28.03.2018. Therefore, on the date of filing of the nomination, the petitioner is not a defaulter. Hence, direction can be issued to the third respondent to include his name in the voters list and permit him to contest the election to the post of Director by furnishing nomination form.

4. Opposing the prayer, the learned Special Government Pleader appearing for respondents 2 and 3 has submitted that Rule 52 (7) (a) of the Tamil Nadu Co-operative Societies Rules, 1988 r/w Section 34 (a) of the Tamil Nadu Co-operative Societies Act, 1983, clearly disqualifies the petitioner, since 30 days prior to the date of election, he has not even cleared the dues. Admittedly, he has repaid the loan amount only on 28.03.2018. In this context, it is relevant to extract Rule 52 (7) (a) of the Tamil Nadu Co-operative Societies Rules, 1988:

"(7) (a) On receipt of the election programme, the Society shall immediately prepare a list of members, who on the date thirty days prior to the date of poll, were qualified in accordance with the provisions of the Act and Rules to vote at the election."

A perusal of the same, clearly shows that the petitioner is ineligible to be a voter in the election.

5. Therefore, this writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

vsm

To

1. The Election Commissioner,
Tamil Nadu Co-operative Societies
Election Commission,
No.273, Kamathenu Cooperative Stores,
Anna Salai, Chennai - 600 018.

+2 CC to Mr. Pitty Parthasarathy, Advocate sr 26346.

+1 CC to Mr. L.P. Shanmuga Sundaram, Advocate sr 26405

W.P.No.8315 of 2018

SP(07/05/2018)

सत्यमेव जयते

WEB COPY