

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16..08..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.20622 of 2018

&

W.M.P.No.24235 of 2018

S.Vadivel

... Petitioner

-Versus-

- 1.The State Election Commissioner,
Cooperative Election,
Kamadhenu Super Market Building,
No.273, Scheme Road,
Subburaya Nagar,
Teynampet, Chennai 600018.
- 2.The District Election Officer / District
Registrar of Cooperative Societies (Dairying),
Erode Circle,
Erode, Erode District.
- 3.The Election Officer,
ED-178, K.Ganapathipalayam Milk Producers'
Cooperative Society,
Ganapathipalayam Nall Road,
Ganapathipalayam Post -638153.
Modakkurichi Taluk, Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to pass final order as per the order of this Court in W.P.No.12072 of 2018 dated 09.05.2018 insofar as it relates to the petitioner's Society viz., ED-178, K.Ganapathipalayam Milk Producers' Cooperative Society, Ganapathipalayam Nall Road, Ganapathipalayam Post 638 153, Modakkurichi Taluk, Erode District.

For Petitioner

: Mr.C.Prakasam

For Respondents

: Mr.M.S.Palanisamy, Standing
Counsel for R1

For Petitioner

: Mr.C.Prakasam

Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader for R2
and R3

ORDER

This writ petition has been filed seeking a direction to the 1st respondent herein to pass final order as per the order of this Court in W.P.No.12072 of 2018 dated 09.05.2018 insofar as it relates to the petitioner's Society viz., ED-178, K.Ganapathipalayam Milk Producers' Cooperative Society, Ganapathipalayam Nall Road, Ganapathipalayam Post 638 153, Modakkurichi Taluk, Erode District.

2. According to the petitioner, he filed his nomination to the election for Board of Directors of the 3rd respondent society. Like the petitioner, there were 23 members filed their nominations. The Election Officer without even passing any order on such nominations, had proceeded to finalize the nominations of 11 members alone. The grievance of the petitioner is that though he made an objection to the 1st respondent 29.05.2018 requesting to cancel the election and conduct fresh election, but, so far no orders have been passed on the same and the same is still pending with the 1st respondent. Hence, this writ petition.

3. Heard both sides.

4. Earlier, while disposing of a batch of Writ Petitions, which were filed challenging the elections to various cooperative societies, a Division Bench of this Court, by judgement dated 03.08.2018 [W.P.No.7526 of 2018 etcetera batch - R.Sakkarapani, Member of Legislative Assembly, Oddanchathiram Constituency v. State of Tamil Nadu and others], has constituted four Zonal Committees Chaired by Retired Judges of this High Court to decide the complaints regarding voters' list and nominations which were filed on or before the date of judgement. In para 143 of the judgement, the Division Bench has held as follows:-

"143. Only objections and/or complaints with regard to voters' lists and nominations already made by approaching this Court or alternatively by approaching the Election Commission and/or Registrar and/or any other appropriate authority shall be entertained and no new complainants and/or objectors who never raised any objection till the date of this judgment shall be entertained by the

Committee. The Committee shall check if the nomination papers comply with the requisites of Rule 52 read with Circular No. Na.Ka.321/2018/Co.EI.1, dated 19.7.2018 of the Election Commission. In particular, the Committee should look into the following aspects:

(a) if the nomination of a candidate for the election is in Form No.18, and proposed, seconded by two other members whose names are included in the voters list, and is signed by the candidate, the proposer and the seconder.

(b) If the nomination paper has to be rejected on the ground that it is not signed by the candidate for election, or it is not signed by two other members whose names are included in the voters list, one as the proposer and the other as the seconder for the nomination. Of course, where there is only one member in the voters list, the nomination need not be seconded, and where excluding the candidate there are no members in the voters' list, the nomination need not be either proposed or seconded.

(c) In case of a central or apex society which has only one society member and no individual member, for election to the board of such central or apex society to fill up the seats reserved for Scheduled Castes and Scheduled Tribes or for women, a person whose name is not included in the voters list, shall also be eligible for being nominated as a candidate.

(d) If the seat is reserved for Scheduled Castes and Scheduled Tribes, whether the candidate seeking election to such reserved seat had furnished a declaration in the nomination form made by him specifying the caste or tribe to which he belongs and the area in relation to which that caste or tribe is notified as a Scheduled

Caste or Scheduled Tribes of the State.

(e) Whether there is any contravention of the rule that the candidate may be nominated by more than one nomination paper, but not exceeding four nomination papers.

(f) Any candidate contesting as a candidate in an election to a single member constituency has signed any nomination papers as a proposer or seconder:

(g) The Committee may examine if the nomination paper was filed in time or out of time."

5. In the instant case, admittedly, the petitioner made his objections alleging misconduct in finalizing the nominations well before the judgement of the Division Bench of this court. Therefore, in the light of the judgement of the Division Bench of this Court, the 1st respondent is directed to refer the objection of the petitioner dated 29.05.2018 to the Committee concerned as directed by the Division Bench of this Court (cited supra) for appropriate action.

7. In the result, this writ petition is disposed of with the above directions. No costs. Consequently, connected WMP is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

kmk
To

1. The State Election Commissioner,
Cooperative Election,
Kamadhenu Super Market Building,
No.273, Scheme Road,
Subburaya Nagar,
Teynampet, Chennai 600018.

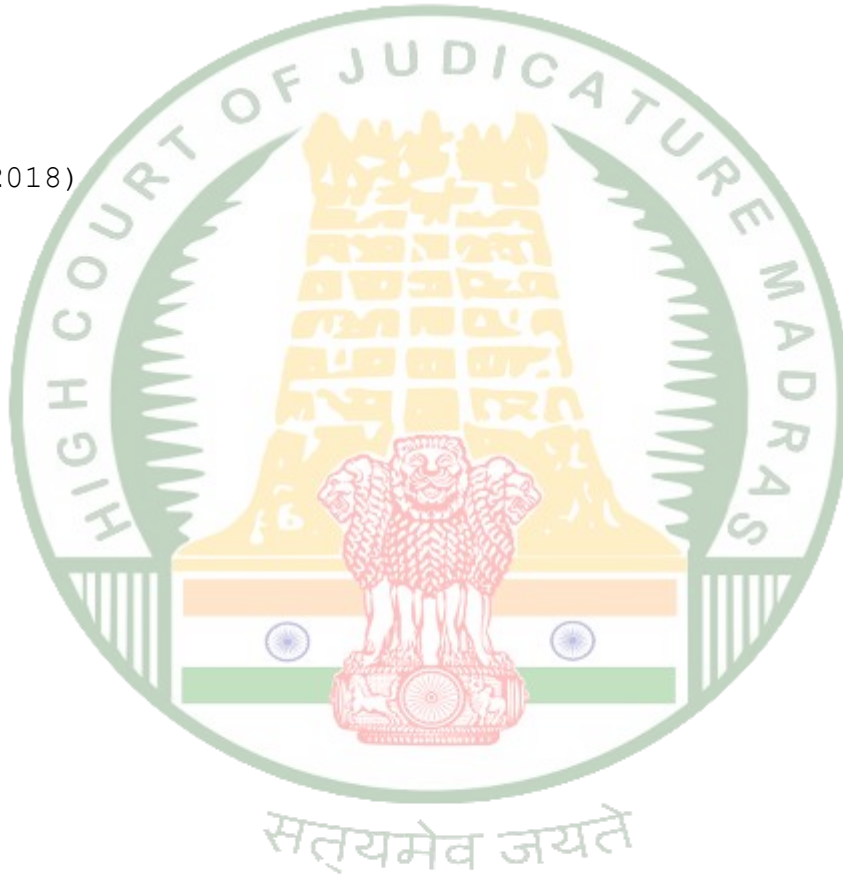
2. The District Election Officer / District
Registrar of Cooperative Societies (Dairying),
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Cooperative Society,
Ganapathipalayam Nall Road,
Ganapathipalayam Post -638153.
Modakkurichi Taluk, Erode District.

+1 CC to Mr.L.P. Shanmuga Sundaram, advocate sr 56775.
+1 cc to Govt. Pleader sr 56851.
+1 CC to Mr.C. Prakasam, Advocate sr 57093.

W.P.No.20622 of 2018

SP(31/08/2018)



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