

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.7586 of 2018

R.Ramalingam

.. Petitioner

Vs

1.The Commissioner,
Tamil Nadu State Cooperative Election Commission,
No.273, Kamadhenu Supermarket, 1st floor,
Anna Salai, Chennai - 1.

2.The Deputy Registrar of Cooperative societies,
Dharmapuri Circle,
Dharmapuri District.

3.Mr.T.R.Rajadurai

4.M.K.Govindarajan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the third respondent's impugned action of removing the name of the petitioner from the voters list of the S.6756 Ernahalli Primary Agricultural Cooperative Credit Society and quash the same as being illegal, arbitrary, unconstitutional and to pass such further orders.

For petitioner : Mr.M.Vijay Anand
for M/s.J.Bhavani

For R1 : Mr.M.S.Palanisamy

For R2 : Mr.L.P.Shanmugasundaram, Spl.GP

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O R D E R

The present writ petition is directed against the impugned action of the third respondent / the Cooperative Sub Registrar (Electoral Officer, Dharmapur District, removing the name of the petitioner from the voters list of S.6756 Ernahalli Primary Agricultural Cooperative Credit Society.

2. Heard Mr.M.Vijay Anand, learned counsel for the petitioner and Mr.M.S.Palanisamy, learned counsel, who accepts

notice for the first respondent and Mr.L.P.Shanmughasundaram, learned Special Government Pleader, who accepts notice for the second respondent. With the consent of either side, the writ petition itself is taken up for final disposal.

3. Learned Special Government Pleader for the second respondent submitted that the petitioner is not eligible to contest or take part in the election in view of pendency of the proceedings initiated under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 (in short "the Act"). He has also relied on Clause (b) of sub-section (5) of Section 34 of the Act, which is quoted below:-

"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."

A cursory reading of the above makes it clear that if proceeding initiated under section 87 or under Section 88 is pending, no member of a board shall be eligible for election or nomination to the board till the termination of such proceeding. By relying so, it is further submitted that in view of the notice dated 27.10.2016 issued by the second respondent proposing to initiate surcharge proceedings under Section 87 of the Act, the petitioner is not eligible to contest the election.

4. On the other hand, it is stated by the learned counsel for the petitioner that since the name of the petitioner was not found place from the list of ineligible candidates published by the respondents to contest the election, a direction may be given to the respondents to permit the petitioner to contest the election.

5. Be that as it may, admittedly, notice dated 27.10.2016 issued by the second respondent proposing to initiate surcharge proceedings under Section 87 of the Act for the alleged misappropriation of society fund as ordered by the Enquiry Officer under Section 81 of the Act is pending till now. Therefore, as per Clause (b) of sub-section (5) of Section 34 of the Act, which is extracted above, the petitioner is not eligible to contest the election in view of pendency of proceedings under Section 87 of the Act. Hence, on this count, this Court is not inclined to interfere with the impugned action of the third respondent removing the name of the petitioner from the voters list of S.6756 Ernahalli Primary Agricultural Cooperative Credit Society.

6. In fine, for the reasons stated above, the writ petition fails and the same is dismissed as devoid of any merit. No Costs. Consequently, connected miscellaneous petitions are closed.

rkm

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Tamil Nadu State Cooperative Election Commission,
No.273, Kamadhenu Supermarket, 1st floor,
Anna Salai, Chennai - 1.

2.The Deputy Registrar of Cooperative societies,
Dharmapuri Circle,
Dharmapuri District.

+1cc to Ms.J.Bhavani, Advocate Sr.No.24576

+1cc to Mr.C.P.Shanmuga Sundaram, Advocate sR.No.24915

+1cc to Government Pleader Sr.No.25222/18

KJI(CO)

sm:17.4.2018

W.P.No.7586 of 2018

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