

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10..09..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.20967 of 2018

and

W.M.P.No.24615 of 2018

S.Saravanan

... Petitioner

-Versus-

1.The Joint Registrar of Cooperative Societies,  
Cuddalore Region,  
Cuddalore.

2.The Deputy Registrar of Cooperative Societies,  
Chidambaram Circle,  
Cuddalore District.

3.K.Radhakrishnan ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 and 2 to disqualify the 3rd respondent from continuing as Member of the Board and consequently as elected President of E-2592 Keerapalayam Primary Agricultural Cooperative Credit Society, Keerapalayam, Chidambaram Taluk, Cuddalore District under Section 34(1)(c)(ii) of The Tamil Nadu Cooperative Societies Act.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.L.P.Shanmugasundaram,  
for R1 and R2

Mr.R.Arun Dattan for R3

ORDER

This writ petition has been filed seeking a writ of mandamus directing the respondents 1 and 2 to disqualify the 3rd respondent from continuing as Member of the Board and consequently as elected President of the respondent society.

2. According to the petitioner, he is one of the Members of the Board of one E-2592 Keerapalayam Primary Agricultural Cooperative Credit Society. Including the petitioner, there are totally 11 Members to the Board of the above said society. The

3rd respondent is also one of the Members of the Board, but, he was not qualified to become the Member of the Board in view of the bar contained in Section 34(1)(c)(ii) of The Tamil Nadu Cooperative Societies Act [ in short, 'the Act']. Further, according to the petitioner, the 3rd respondent was working as the Manager in Villupuram Cuddalore District Milk Producers' Union Limited and he was superannuated on 31.08.2016 and therefore, he suffered from disqualification under Section 34(1)(c)(ii) of the Act from contesting cooperative society election till 31.08.2018. Earlier, the petitioner filed objection when the 3rd respondent filed his nomination, but the same was not considered. Subsequently, on 07.08.2018, the 3rd respondent was declared to be duly elected as Member of the Board, thereafter, he was elected as President of the society in the election held on 11.08.2018. In the above circumstances, the petitioner filed his objection to the respondents to disqualify the 3rd respondent from the post of Board of Directors, but, his representation has not been so far considered. Hence, this writ petition.

3. The 3rd respondent filed his detailed counter affidavit inter alia contending that the petitioner has filed objection after the process of scrutiny of nomination for the election which was original scheduled to be held on 10.04.2018 was over and subsequently, the election was rescheduled and the 3rd respondent was declared to be the duly elected Member of the Board and thereafter, he was declared elected as President of the society. As the petitioner who was very much desirous to become the President of the society after having become failed in his attempt, has come up with the present writ petition. The 3rd respondent further contended that as the only remedy available to the petitioner is to approach the State Cooperative Election Commission for redressal of his grievance , the instant writ petition is not at all maintainable.

4. The 2nd respondent filed his counter affidavit wherein he inter alia contended that the the petitioner raised his objection only after the process of scrutiny of nomination papers was over and therefore, it was not considered.

5. I have heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 and 2 and the learned counsel for the 3rd respondent and also perused the records carefully.

6. Admittedly, the 3rd respondent was working as Manager of Villupuram Cuddalore District Milk Producers' Union Limited and he got retired on 31.08.2016. According to the petitioner, the 3rd was being disqualified from contesting the election till 31.08.2018 as per the provision in Section 34(1)(c)(ii) of the

Act. The grievance of the petitioner is that though the 3rd respondent was being disqualified from contesting the election for the post of Members of the Board of the respondent society, he was allowed to contest the election and was declared to be the duly elected member and subsequently, he has been elected as President of the Society. His objection in this regard has not been considered by the respondents.

7. Section 34(1)(c)(ii) of the Act reads as follows:-

"34. Disqualifications for membership of board.- (1) No person shall be eligible for being elected or nominated as a member of a board of any registered society if he-

... ..  
... ..

(c) (ii) was employed in any co-operative society or was working as Government servant engaged in administration or audit of co-operative societies and a period of two years has not elapsed from the date of his ceasing to be such employee or Government servant; or"

8. It is not in dispute that the 3rd respondent filed his nomination papers for the election which was originally scheduled to be held on 10.04.2018 and subsequently rescheduled to be held on 07.08.2018. The nomination papers were filed by the petitioner within the period of two years from the date of his retirement. However, as rightly pointed out by the 3rd respondent, the petitioner filed his objection in this regard only after the process of scrutiny of nomination was over for the election which was originally scheduled on 10.04.2018 was over. Subsequent to the filing of nominations, the election was rescheduled and the election was held to be held on 10.08.2018. It is pertinent to note that objection dated 23.04.2018 filed by the petitioner in this regard to the election officer concerned was not considered. However, the petitioner has already approached the 2nd respondent, who is competent to consider the issue in respect of disqualification, by way of objection dated 11.08.2018 and no order has been passed on the same till date. In the said circumstances, this court is of the view that no positive direction could be issued as prayed for in this writ petition. This court is, however, inclined to direct the 2nd respondent to consider the objection filed by the petitioner on 09.08.2018 in accordance with law.

9. In the result, the writ petition is disposed of with a direction to the 2nd respondent to consider the objection of the petitioner dated 09.08.2018 and pass suitable orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected WMP is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmk

To

- 1.The Joint Registrar of Cooperative Societies,  
Cuddalore Region,  
Cuddalore.
- 2.The Deputy Registrar of Cooperative Societies,  
Chidambaram Circle,  
Cuddalore District.

+1cc to Mr.M.S.Palaniswamy, Advocate sr.no.63207  
+1cc to Mr.R.Arun Dattan, Advocate sr.no.63132  
+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.no.63078  
+1cc to Government Pleader sr.no.63001

W.P.No.20967 of 2018

br(co)  
nr 25/10/2018

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