

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

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THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 21056 of 2018

and

W.M.P.s 24702 & 24703 of 2018

M.Sundarraju

... Petitioner

Vs

1. Tamil Nadu State Co-operative Societies Election Commission, rep. by its Commissioner, No.273, Kamadhenu Supermarket, Teynampet, Chennai-600 018.
2. The Deputy Registrar/ District Election Officer, Dharmapuri District, Dharmapuri.
3. The Election Officer, D.P.D. 40, Pidamaneri Milk Producers Co-operative Society, Pidamaneri, Dharmapuri Dt.
4. P.Mathesh

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent dated 11.08.2018 that one P.Mathesh has been elected as the President and quash the same and consequently direct the respondents to declare that the petitioner has been duly elected as the President of the 3rd respondent society.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.M.S.Palaniswamy,
Standing Counsel for R-1 & R-2

Mr.L.P.Shanmugasundaram,
Special Government Pleader
for 3rd respondent

Mr.C.K.Chandrasekhar for R-4

O R D E R

This writ petition has been filed challenging the election conducted to the post of President to the 3rd respondent co-operative society.

2. According to the petitioner, the election to the Board of Directors to the 3rd respondent society was conducted on 07.08.2018. The petitioner was declared elected as one of Board of Directors to the 3rd respondent society. Thereafter, the election to the post of President and Vice-President was conducted on 11.08.2018. Out of eleven Directors, eight Directors have casted their votes in the election and the 3rd respondent Election Officer also declared the petitioner elected as a President and one Mr.Subramaniam was declared elected as a Vice-President at 12.30 p.m. Thereafter, the 3rd respondent has issued another declaration declaring the 4th respondent, one Mr.P.Matesh was elected as a President and one Mr.B.Ganesan was elected as a Vice-President at about 02.00 p.m. Thereafter, the 3rd respondent has again declared that Mr.P.Mathesh elected as a President and the petitioner was elected as Vice-President at about 06.00 p.m. on the very same day. The above two declarations issued by the 3rd respondent at 02.00 p.m. and 06.00 p.m. are totally illegal, since the petitioner is enjoying the majority of eight Directors out of 11 Directors. In the said circumstances, the present Writ Petition has been filed.

3. The 3rd respondent Election Officer filed a counter affidavit stating that the election to the post of President and Vice-President was conducted on 11.08.2018. At about 10.30 a.m. nominations have been filed for the post of President and Vice-President. The nomination of the 4th respondent was scrutinised and informed finally that he was declared elected as a President at about 12.30 p.m. and the petitioner was duly elected as Vice-President. Thereafter, at about 01.10 p.m. the petitioner came to the society with mob of local people and threatened the 3rd respondent to modify the election declaration declaring the petitioner as a President instead of 4th respondent Mr.P.Mathesh. Since the 3rd respondent being an age-old woman and being threatened by mob of persons, under coercion, she has issued the second declaration declaring the petitioner as a President.

4. Earlier, notice was issued to the 3rd respondent, today, the 3rd respondent had appeared in person before this Court. I have heard the submissions made by both the petitioner as well as the respondents and perused the records carefully.

5. The case of the petitioner is that he has filed the nomination for the post of President and the 4th respondent has

also filed his nomination. Since the petitioner has got eight votes out of 11 Directors, he was declared elected as a President and one Mr.Subramaniam was declared elected as Vice-President. Thereafter, another declaration was issued by the 3rd respondent declaring the 4th respondent as a President and one B.Ganesan as a Vice-President. Once again, the 3rd respondent has issued another declaration, declaring the 4th respondent as a President and the petitioner as a Vice-President. Since the 3rd respondent Election Officer was under the pressure given by the 4th respondent and under fear, she has illegally issued the impugned declaration.

6. Today, when the matter taken up for hearing, the learned counsel appearing for the 3rd respondent produced the entire records. On perusal of records, it clearly reveal that the 4th respondent has filed his nomination for the post of President and another nomination is available in the records showing that the petitioner herein filed his nomination for the post of Vice-President. But, the learned counsel Mr.K.Selvaraj appearing for the petitioner contended that the petitioner alone has filed the nomination for the post of President only and his nomination has been forged by somebody as if the petitioner is contesting for the post of President. He has also produced the xerox copy of the nomination filed by the petitioner. I have verified the xerox copy of the nomination along with the nomination available in the records and on the face of it, it could be seen that there is an alteration made in the nomination. But, the 3rd respondent Election Officer, who has present before this Court submitted that she has not made any interpolation in the said nomination. That apart, she has also submitted that she was compelled and intimidated by a mob and only on the request of the elected Board of Directors that a compromise was arrived between themselves, she was compelled to issue the impugned declaration, being a old lady and surrounded by a mob and intimidated her, she has no other option except to issue the impugned declaration and it could be seen that she has no intention to support any particular candidate.

7. On perusal of records, prima facie, I am satisfied that the election has not been conducted in a fair and proper manner and it could be seen that the 3rd respondent Election Officer has been pressurised to issue the impugned declarations. In the said circumstances, as the materials available on record established that the election was not conducted fairly. In the above exceptional circumstances, I am of the view that the election conducted for the post of President and Vice-President is liable to be set aside, accordingly, the election is set aside.

8. On the above circumstances, the 1st respondent is directed to issue a fresh election notification for conducting

the election to the post of President and Vice-President to the 3rd respondent Society. Since the 3rd respondent Election Officer is being a aged lady, and as she has been pressurised and intimidated by a mob, she has issued such declarations, and I am of the view that she has no intention to support any candidate, hence, there is no need to take any action against the 3rd respondent.

9. In view of the above, the present Writ Petition stands allowed with the above directions. No costs. Consequently, the connected Writ Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Tamil Nadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Teynampet, Chennai-600 018.
2. The Deputy Registrar/
District Election Officer,
Dharmapuri District,
Dharmapuri.
3. The Election Officer,
D.P.D. 40, Pidamaneri Milk Producers
Co-operative Society,
Pidamaneri, Dharmapuri Dt.

+2cc to Mr.K.Selvaraj Advocate, S.R.No. 60976, 59947
+1cc to Mr.L.P.Shanmugasundaram Advocate, S.R.No. 60437
+1cc to the Government Pleader, S.R.No. 61264

W.P. 21056 of 2018
and
W.M.P. 24702 & 24703
of 2018

PP(CO)
GN(04/10/2018)