

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16..08..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.21111 of 2018

M.Sivasubramanian

... 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 /  
Deputy Registrar of Cooperative Housing,  
Chinthamani Super Market Compound,  
Coimbatore 641043.

3.The Election Officer,  
No.K-701, Tiruppur Cooperative Building Society,  
A.B.T. Road, Karuvampalayam,  
Tiruppur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to refer the objection of the petitioner dated 28.05.2018 to the Committee constituted by this Court by order in W.P.No.7526 of 2018 etc batch dated 03.08.2018.

For Petitioner

: Mr.C.Prakasam

For Respondents

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

ORDER

The petitioner, who is one of the Members and the Former Elected President of the 3rd respondent has come up with this

writ petition, seeking for a direction to the respondents to refer his objection dated 28.05.2018 to the Committee constituted by this Court by order in W.P.No.7526 of 2018 etc batch dated 03.08.2018.

2. According to the petitioner, he has filed his nomination to the election for Board of Directors of the 3rd respondent society. Like the petitioner, there were 10 members filed their nominations. The Election Officer without even passing any order on his nomination, had proceeded to finalize the nominations of 10 other members and included the name of one another candidate by name Mr.Krishna Prasath, who, in fact, had not at all filed any nomination on 09.04.2018. The petitioner made an objection to the 1st respondent 28.05.2018 with regard to omission of his name in the final list of elected candidate. The grievance of the petitioner is that his nomination has not been rejected by the Election Officer and despite his representation, the 3rd respondent has not so far furnished particulars as to the rejection of the nomination of the petitioner and nomination particulars of Mr.Krishna Prasath. 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 28.05.2018 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.

Sd/-  
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

kmk

To

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A.B.T. Road, Karuvampalayam,  
Tiruppur.

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.56775  
+1cc to Mr.C.Prakasam, Advocate SR.No.57094  
+1cc to Government Pleader SR.No.56855

W.P.No.21111 of 2018

GN(30/08/2018)



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