

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.7862 of 2018

G.Shanmugasundaram

... Petitioner

Vs.

1. The Election Commissioner,  
Election Commission,  
Tamil Nadu Co-operative Societies,  
Chennai - 18.

2. The Director of Handloom and Textiles,  
Handloom and Textiles Department,  
Kuralagam II Floor,  
Chennai.

3. The Assistant Director,  
District Election Officer,  
Handlooms and Textiles Department,  
Madurai.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1<sup>st</sup> respondent to permit the petitioner to participate in the election to be held on 28.04.2018 as requested by the petitioner in his representation dated 23.03.2018.

For Petitioner : Mr.Stalin Abhimanyu  
for M/s.Chamundi Bose

For Respondents: Mr.M.S.Palanisamy,  
Standing Counsel for R1  
Mr.L.P.Shanmugasundaram,  
Special Government Pleader for R2 & R3

O R D E R

This Writ Petition has been filed seeking for issuance of Writ of Mandamus directing the 1<sup>st</sup> respondent viz., the Election Commissioner of Co-operative Societies, Chennai to consider the

petitioner's representation dated 23.03.2018, seeking to participate in the election to be held on 28.04.2018.

2. The learned counsel appearing for the petitioner has submitted that the petitioner is the President of MH 99 Sri Inba Vinayagar Weaver's Co-operative Production and Sales Societies from 07.05.2013 till date. The date for election to the post of Directors and other Office Bearers were informed and the petitioner has filed his application for contesting the election. But his application has not been accepted, as result of which, the petitioner is not even able to submit his nomination papers. On enquiry, he was informed that the 1<sup>st</sup> respondent, by order dated 10.05.2016 has stated that the rebate subsidy cannot be given to the Society, as an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 is initiated against the Society. Subsequent to the order of the 1<sup>st</sup> respondent, enquiry under Section 81 was conducted by an Enquiry Officer, who had recommended closure of the Society and also initiation of action against some of the Office Bearers of the Society. The proceedings initiated against the petitioner under Section 87 is still pending. The learned counsel appearing for the petitioner has further submitted that mere pendency of proceedings under Section 87 cannot make anyone ineligible to contest in the election, which is conducted once in five years. Hence, prays that the representation of the petitioner dated 23.03.2018 made to the 1<sup>st</sup> respondent may be considered.

3. The learned Special Government Pleader appearing for the respondents 2 & 3 has submitted that the petitioner is not eligible to take part in the election as he is facing proceedings under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983. Taking support from Section 34 (5)(b) of the Tamil Nadu Co-operative Societies Act, 1983, the learned Special Government Pleader submitted that as per sub-section (5) (b) of Section 34 makes, any member of a Board in any Society is ineligible to contest the election, if he faces proceedings under Section 87, .

4. It is relevant to extract Section 34 (5)(b) of the Tamil Nadu Co-operative Societies Act, 1983 :

"No member of a Board in respect of whom proceedings under Section 87 is pending and no member of a Board in respect of which proceedings under Section 88 is pending, shall be eligible for election or nomination to the Board till the termination of such proceedings."

5. A careful reading of Section 34 (5)(b) of the Tamil Nadu Co-operative Societies Act, 1983, clearly shows that no member shall be eligible for election or nomination when the proceedings under Section 87 is pending, till the termination of

such proceedings. Admittedly, in the case of the petitioner, the proceedings initiated under Section 87 is not yet been terminated.

6. In view of the above stated reasons, the Writ Petition fails and accordingly, it is dismissed. No costs.

s/d-  
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

va

To

1. The Election Commissioner,  
Election Commission,  
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Chennai - 18.
2. The Director of Handloom and Textiles,  
Handloom and Textiles Department,  
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Chennai.
3. The Assistant Director,  
District Election Officer,  
Handlooms and Textiles Department,  
Madurai.

+1 CC to M/s. Chamundi Bose, Advocate sr 25496.  
+1 CC to Govt. Pleader sr 25646.

सत्यमेव जयते

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PVS (CO)  
SP (20/04/2018)

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