

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

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THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 21350 of 2018

and

W.M.P.s 25027 to 25029 of 2018

1. K.Durai
2. S.Elangovan
3. S.Mayakannan
4. K.Subramanian

... Petitioners

Vs

1. Government of Tamil Nadu
rep. By its Secretary,
Co-operative, Food and Consumer
Protection Department,
Fort St. George, Chennai-600 009.
2. Tamil Nadu Co-operative Societies
Election Commission,
rep. By Tamil Nadu Co-operative
Societies Election Commissioner,
Kamadhenu Co-op. Super Market,
Building, 273, Scheme Road,
Subbarayan Nagar, Teynampet,
Chennai-600 018.
3. Registrar of Co-operative Societies,
170, N.V.Natarajan Maaligai,
E.V.R.High Road, Kilpauk,
Chennai-600 010.
4. The Commissioner of Police,
Greater Chennai,
132, EVK Sampath Salai,
Vepery, Chennai.
5. The Deputy Registrar of Co-operative
Societies (Credit),
District Election Officer,
Kuralagam, Chennai-600 108.

6. The Returning Officer,
for Transport Corporation
Employees Co-operative Thrift and
Credit Society Ltd., X367,
Rathna Nagar, Teynampet,
Chennai-600 018.

7. Transport Corporation Employees
Co-operative Thrift and Credit
Society Ltd., X367,
rep. by its Secretary,
Rathna Nagar, Teynampet,
Chennai-600 018.

8. N.Rajendran

9. S.Rajendran

10. G.Sampathkumar

11. M.Samraj

12. Komathi Kavitha

13. R.Nalina

14. J.Sagayameri

15. P.Vanitha

16. S.Sundarajan

17. S.P.Thamilasu

18. K.Thulasidoss

19. Udhayasankar

20. I.Vadivel

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 15.08.2018 passed by the 2nd respondent in Na.Ka.No.2342/2018/Koo.The.2, cancelling the election to the 7th respondent society, quash the same and consequently, direct the respondents 1 to 3, 5 and 6 to continue and complete the election process, based on the final list of valid nominations already issued by the 6th respondent for the 7th respondent society on 03.05.2018, by re-scheduling the dates for further processes of election, within a specified time as may be

fixed by this Hon'ble Court by seeking and getting the necessary and required police protection from the 5th respondent and others if necessary.

For Petitioners : Mr.R.Krishnaswamy
For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader
for R-1, R-3, R-5, R-6 & R-7

Mr.M.S.Palaniswamy,
Standing Counsel for R-2 & R-5

Mr.A.N.Thambidurai,
Special Government Pleader
for R4

O R D E R

This writ petition has been filed challenging the order passed by the 2nd respondent dated 15.08.2018 stopping the election to the Board of Directors to the 6th respondent society.

2. According to the petitioner, the election to the Board of Directors of the 6th respondent society was scheduled to be held on 16.08.2018 apprehending that there is likelihood of law and order problem, the Inspector of Police, Thiruvannamiyur Police Station has sent a communication to the Election Officer to postpone the election. That complaint was referred to the 2nd respondent Election Commissioner and the 1st respondent also based on the report filed by the District Election Officer cancelled the election by an order dated 15.08.2018. Now, challenging the above said order, the present Writ Petition has been filed.

3. Mr.V.Ajay Khosh, learned counsel appearing for the petitioner submitted that the election was scheduled to be conducted to the 6th respondent society in 7 Districts of Tamil Nadu. Out of 7 Districts, except 2 polling booths i.e. Thiruvannamiyur and Adyar, there is no complaint of any law and order problem and elections will be conducted in a peaceful manner. Merely because, there is a problem in two polling booths, the 1st respondent ought not to have cancelled the election. The learned counsel further submitted that the election could be conducted with adequate police protection in the said two polling booths.

4. Earlier, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the 4th respondent is directed to get suitable instructions from the Commissioner of Police whether any adequate police protection can be provided for those two

Polling stations. Today, Mr.A.N.Thambidurai, learned Special Government Pleader, on instructions, has submitted that whenever the Election Officer requests for police protection for conducting the election, the adequate police protection will be provided.

5. Mr.M.S.Palaniswamy, learned standing counsel appearing for 2nd respondent submitted that now, the election is cancelled, and suitable direction may be issued to the 1st respondent directing to re-schedule the election and give the fresh election schedule for conducting the election.

6. Considering the fact that now, the police is willing to provide adequate police protection, the 2nd respondent is directed to issue a fresh schedule of election to the 6th respondent society and on the re-schedule date, if any, law and order problem is likely to arise, the 6th respondent is directed to approach the concerned police seeking police protection and on receipt of such request, the concerned police stations are directed to provide adequate police protection to conduct the election in a free and fair manner. The 2nd respondent is directed to issue fresh schedule of election within a period of two weeks from the date of receipt of the copy of this order. At the time of election, the Election Officer is directed to videograph the entire election process at the cost of the petitioner and to send the CD in a sealed cover to the 2nd respondent.

7. With the above direction, the present Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rpp

To

1. Government of Tamil Nadu
rep. By its Secretary,
Co-operative, Food and Consumer
Protection Department,
Fort St. George, Chennai-600 009.

WEB COPY

2. Tamil Nadu Co-operative Societies
Election Commission,
rep. By Tamil Nadu Co-operative
Societies Election Commissioner,
Kamadhenu Co-op. Super Market,
Building, 273, Scheme Road,
Subbarayan Nagar, Teynampet,
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3. Registrar of Co-operative Societies,
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Rathna Nagar, Teynampet,
Chennai-600 018.
7. Transport Corporation Employees
Co-operative Thrift and Credit
Society Ltd., X367,
rep. by its Secretary,
Rathna Nagar, Teynampet,
Chennai-600 018.

+1cc to Mr.V.Ajoykhose, Advocate, S.R.No.60200

+1cc to the Government Pleader, S.R.No.60618

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KS (CO)
GSP (03/10/2018)