

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No. 21470 of 2018

and

W.M.P.No. 25268 & 21269 of 2018

N.Manoharan Petitioner

Vs

1.The Tamil Nadu State Co-operative Election Commission,
Rep by the Tamil Nadu State Co-operative Election
Commissioner,
273,Kamadhenu Super Market Building,
First floor,
Anna Salai, Teynampet
Chennai - 600 018.

2.The Deputy Registrar
District election Officer for Co-operative Societies,
Kancheepuram Circle
District election Officer,
Kancheepuram District
Kancheepuram.

3.The Deputy Registrar/Principal Revenue Officer,
Kancheepuram Central Co-operative Bank
Kancheepuram District
Kancheepuram.

4.The Managing Director,
Little kancheepuram co-operative Urban Bank Ltd,
No.381 T.K.Nambi street,
Chinna Kancheepuram,
Kancheepuram- 631 501.

... Respondents

PRAYER : Petition filed under Article 226 of the
Constitution of India, praying to issue Writ of
Certiorarified mandamus to call for the records of the first
respondent Tamilnadu State Co-operative Societies Election
Commission commencing fresh Election in the notification in
NA Ka 321/2018 Koo they 1(2) dated 09.08.2018 and

consequential proceedings of the second respondent District election Officer in Na Ka 3932/2017 A3 dated 11.08.2018 and consequential paper advertisement published in Daily Thanthi dated 13.08.2018 by the second respondent and to quash the same and to direct the Tamilnadu State Co-operative Societies Election Commission, to conduct the election of Said Little Kancheepuram Co-operative Urban Bank Ltd No.381, from the stage of voting, at which stage the previous election stopped as required under rule 52 (18) © of Tamil Nadu Co-operative Societies.

For Petitioner :Mr.B.Kumar
Senior Counsel
for Mr.V.KR.Balakrishnan

For Respondents :Mr.M.S.Palanisamy,
Standing Counsel, for R1
Mr.L.P.Shanmugasundaram,
Special Government Pleader
for R2 to R4

O R D E R

This writ petition has been filed challenging the order passed by the first respondent in Na.K.A.321/2018 Koo.they 1(2) dated 09.08.2018 .

2. According to the petitioner, earlier election to the fourth respondent society was conducted on 27.04.2018. During the polling, there was some problem in the election and some unruly elements gained access to the polling booth and deliberately destroyed the ballot box. Hence, the election was stopped at that stage and the matter was referred to the first respondent for taking decision. On receipt of the report from the election officer, the first respondent has passed an order in and by his proceedings dated 20.07.2018 in Na.Ka.No.5343/2018/KOO they.1(25) invoking his power under Rule 52(18)(C) of the Tamil Nadu Co-Operative Societies Rules, directing the respondents 1 to 3 to conduct election from the stage, where it was stopped. Subsequently, the first respondent in and by its proceedings dated 09.08.2018 in Na.Ka.3932/2017 A3, appointed one Jegansing Rajan as an election officer and directed him to conduct election from the stage it was stopped. Surprisingly, on the very same day, the first respondent passed another order in and by his proceedings in Na.Ka.No.321/2018/koo they 1(1) dated 09.08.2018 cancelling the entire schedule of election and also decided to conduct election from the very beginning. Now, challenging the above order, the present Writ Petition has been filed.

3. Mr. B.Kumar, Senior Counsel, appearing for the petitioner would submit that under Rule 52 (18) (c) , the first respondent is only authorized to conduct the election from the stage it was stopped. Invoking the above provision, the first respondent earlier passed an order dated 20.07.2018 and another order dated 09.08.2018 directing to conduct election from the stage it was stopped. But, all of a sudden, on the very same day, the first respondent passed another order dated 09.08.2018, thereby cancelling the entire election and ordered re-election to the society, for which, the first respondent has no power.

4. Mr. M.S.Palaniswamy, Standing Counsel, appearing for the first respondent, on instructions, submitted that since there was some practical difficulty in conducting the election from the stage it was stopped, the election commission in order to conduct election fairly in free manner.

5. I have heard the rival submissions and carefully gone through the records.

6. Admittedly, the election was stopped at the stage of polling. Subsequently, on 20.07.2018, considering the report submitted by the Election Officer, the first respondent also passed an order to conduct election from the stage where it was stopped. It was also followed by another order dated 09.08.2018, appointed a new election officer and also issued an election schedule. But, on the very same day, the first respondent passed the present impugned order cancelling the election simply saying that there is some practical difficulty in conducting election from the stage where it was stopped.

7. I find no reason to accept the orders passed by the first respondent, on 09.08.2018, after appointing the election officer and also issuing election schedule, the first respondent passed another order on the very same day cancelling election without assigning any valid reason. Under Rule 52(18)(C) of Tamilnadu Co-operative Societies Rules, the first respondent is empowered to resume the election from the stage it was stopped. If the election commission wants to cancel the entire election and to conduct fresh election, the election commission should give some valid reason. From the impugned order, I do not find any valid reason for cancelling the election and to conduct the fresh election. In the above circumstances, the impugned order is liable to be set aside.

8. Accordingly, the impugned order dated 09.08.2018 in Na.Ka.321/2018 Koo.they 1(1) is set aside, and remanded back to the first respondent. The first respondent

is directed to pass a fresh order directing the fourth respondent/ Election Officer to resume the election from the stage, where the election was stopped and also issue a new election schedule. The first respondent is also directed to complete the above exercise within a period of two weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

mrp

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

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Chinna Kancheepuram,
Kancheepuram- 631 501.

+1cc to Mr.L.P.Shanmugasundaram, , Advocate SR.No. 58034

+1cc to V.K.R.Balakrishnan, Advocate SR.No. 57815

+1 CC TO GOVERNMENT PLEADER SR.NO. 58532

+4cc to V.K.R.Balakrishnan,Advocate SR.No. 57815(01/11/2018)

W.P.No. 21470 of 2018

and

W.M.P.No. 25268 & 21269 of 2018

MR (CO)

ASK(19/09/2018)