

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2018

CORAM:
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.Nos. 20916 and 21802 of 2018
and
W.M.P.Nos.24558, 24559, 25570 to 25572 of 2018

Bharathi Co-operative Housing Society Ltd.,
MSCS/CR/1284/2018, No.87-A,
Perambr High Road,
Perambur. Chennai- 600 011
rep. by its Chairman, m
Mr.C.Govindarajulu ... Petitioner in both W.Ps.

Vs.

1. The Registrar of Co-operative Societies,
Chennai - 10.
2. The Registrar (Housing)
Chennai - 600 007.
3. The Deputy Registrar (Housing),
Chennai Region,
18, Ramanathan Street,
T.Nagar, Chennai - 600 017.
4. The Central Registrar,
Government of India,
Ministry of Agriculture & Farmers
Welfare, Department of Agriculture,
Co-opertive & Farmers Welfare,
Krishi Bhawan, New Delhi - 110 001.
5. Mr. G.Mugundhan,
6. Mr. D.Lingesan ... Respondents in W.P.20916/2018
1. The Registrar of Co-operative Societies,
No.170, E.V.R.High Road,
Kilpauk, Chennai - 10
2. The Election Commission for
Tamil Nadu State Co-operative Societies,
by its commissioner,
No.271, Anna Salai, Teynampet,
Chennai - 18.

3. The Registrar of Co-operative Societies (Housing)
Tamil Nadu Co-operative Housing Federation Complex,
II Floor, No.48, Ritherden Salai,
Vepery, Chennai 600 007.
4. The Deputy Registrar of Co-operative
Societies (Housing),
Chennai Region,
18, Ramanathan street,
T.Nagar, Chennai -600 017
5. The Central Registrar,
Government of India,
Ministry of Agriculture and Farmers
Welfare Department of Agriculture
Co-operation of Farmers Welfare,
Krishi Bhavan,
New Delhi - 110 001.
- 6.G.Govindarajulu ... Respondents in W.P.21802/2018

PRAYER in W.P.20916 of 2018 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari to call for the records relating to the impugned order of the third respondent in proceedings No.Na.Ka.No.286/2018/C dated 06.08.2018 and quash the same.

PRAYER in W.P.21802 of 2018 : Petition filed under Article 226 of the constitution of India, praying to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned purported proceeding No.L11016/25/2014-L & M, dated 18.05.2018 of the 5th respondent in converting of petitioner's building society into Multi State Co-operative Society by re-naming it as Bharathi Co-operative Housing Society Ltd by assigning registration No.MSCS/CR/1284/2018 and quash the same as illegal, arbitrary, fraudulent, without jurisdiction and contrary to act and rules made there under and forbear the 6th respondent or any persons claiming officer under the impugned proceedings issued by the 5th respondent from interfering with the petitioner's housing society orders.

For Petitioner in both W.Ps. : Mr.P.Rajendran

For Respondents in W.P.20916/18: M.S.Palanisamy,
Standing counsel,
for R1

: Mr.L.P.Shanmugasundaram,
Spl. G.P. for R2 and R3

: Mr. K.S.Jeyaganesh,
for R4.

: Mr. R.Veeramani,
for R5 & R6

For respondents in W.P.21802/2018 : Mr.M.S.Palanisamy,
Standing counsel,for R2.

: Mr.L.P.Shanmugasundaram,
Spl. G.P.,
for R1, R3 & R4

: Mr.K.S.Jeya Ganesh,
for R5

C O M M O N O R D E R

The writ petition in W.P.No.20916 of 2018 has been filed challenging the order passed by the third respondent directing the Board of Directors to assume office .

2. The grievance of the petitioner is that the petitioner's society was originally registered as "Bharathi Co-operative Building Society" under the Tamil Nado Co-operative Societies Act(herein after called as "State Act"). Thereafter, with effect from 18.05.2018, the society was converted into Multi State Co-operative Society and the same has been registered under Section 22 of the Multi State Co-operative Societies Act, 2002. From the date of conversion of society into Multi State Co-operative Society, the first respondent, Registrar, has no jurisdiction over the society and the Central Registrar, 4th respondent alone has jurisdiction over the society. After registering the society under the Multi State Co-operative Societies Act, election to the Board of Directors has been conducted under the State Act, however, the result was not declared. Subsequently, by the impugned order dated 06.08.2018, the Deputy Registrar directed the Elected Board of Directors to assume office. Hence, W.P.No.20916 of 2018 has been filed.

3. The learned counsel appearing for the petitioner submits that since the Society has been registered under the Multi State Co-operative Societies Act on 18.05.2018, the Registrar under the Tamil Nadu State Co-operative Societies Act has no

jurisdiction over the society and no election to the society also could be conducted under the Tamil Nadu State Co-operative Societies Act, hence the person who said to have elected also cannot assume charge.

4. WP.No.21802 of 2018 has been filed challenging the order passed by the 5th respondent, Central Registrar converting the society into Multi State Co-operative Society and registering the same under Section 22 of the Multi State Co-operative Societies Act.

5. According to the petitioner, without following due process of law, the Society, which was registered under the Tamil Nadu Co-operatives Act, has been converted into Multi State Co-operative Society. Hence, W.P.No.21802 of 2018 has been filed.

6. The fifth respondent, Central Registrar filed a counter affidavit stating that after registering the society under the Multi Society Co-operative Societies Act, they have received a letter from the Co-operative Housing Department of Tamil Nadu, with a request to cancel the registration granted by the 5th respondent. Now the above request has been under examination as per the provisions of the Multi State Co-operative Societies Act.

7. Mr.K.S.Jeyaganeshan, learned counsel appearing for the 5th respondent submitted that, now, pursuant to the request made by the State Government, the fifth respondent has proposed to conduct enquiry after issuing notice to the concerned parties and suitable orders will be passed.

8. In the above circumstances, as of now, the matter is pending with the fifth respondent/ Central Registrar, for considering the request made by the State Government to cancel the registration, the fifth respondent/ Central Registrar is directed to conduct enquiry after issuing notice to the petitioner in both the writ petition and also other interested parties and pass suitable orders on merits and in accordance with law within a period of 8 weeks from the date of receipt of a copy of this order. W.P.No.21802 of 2018 is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

9. So far as the prayer sought for in the writ petition in W.P.No.20916 of 2018 is concerned, as the society has been converted into Multi State Co-operative societies as early as on 18.05.2018, the third respondent has no power to pass any order. Hence, the impugned order in W.P.No.20916 of 2018 is set aside and the W.P.No.20916 of 2018 is allowed. Any election conducted to the Society under the Tamil Nadu State Co-operative Societies will be subject to the order that may be passed by the

Central Registrar regarding the cancellation of the registration of the Society. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Registrar of Co-operative Societies,
No.170, E.V.R.High Road,
Kilpauk, Chennai - 10
- 2.The Registrar of Co-operative Societies (Housing)
Tamil Nadu Co-operative Housing Federation Complex,
II Floor, No.48, Ritherden Salai,
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- 5.The Election Commission for
Tamil Nadu State Co-operative Societies,
by its commissioner,
No.271, Anna Salai, Teynampet, Chennai - 18
- 6.The Registrar (Housing), Chennai -7

+1cc to the Government Pleader, S.R.No.81759
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.82372
+1cc to Mr.P.Rajendran, Advocate, S.R.No.81501
+2ccs to Mr.R.Veeramani, Advocate, S.R.No.81138 & 81139
+2ccs to Mr.K.S.Jeyaganesan, Advocate, S.R.No.81126 & 81127

W.P.No.20916 & 21802 of 2018

SSD(CO)
rrs 05/12/2018