

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No. 21653 & 22059 of 2018
and
W.M.P.Nos. 25399 to 25401 of 2018
& 25845 and 25846 of 2018

S.S.K.Rajendran Petitioner in both W.Ps.

Vs

- 1.The Tamil Nadu State Co-operative
Election Commissioner
No.273, Scheme road, Subbarayan nagar
Teynampet, Chennai.
- 2.The District Election Officer/Deputy Registrar
of Co-operative societies
Chengalpattu.
- 3.The Electoral officer/the Sub-Registrar
of Co-operative Societies (Housing)
Office of the Deputy Registrar(Housing)
Chengalpattu.
- 4.Mr.Deva Bushan,
The Election Officer,
Gandhi Nagar Co-operative Society G1304
No.5, V.O.C. Salai, Gandhi Nagar
Madipakkam, Post,
Chennai-600 091

... Respondents in both W.Ps.

PRAYER in W.P.No.21653 of 2018 :

Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus to call for the records of the third respondent in her proceedings 20.08.2018 quash the same and direct the respondents to hold the election to the Gandhi Nagar Society G1304 No.5, V.O.C.Salai, Gandhi Nagar, Madipakkam Post, Chennai-600 091 after including the names of the 49 members of the Society whose names were in the electoral list published on 06.04.2018 by the third respondent and whose names have been omitted in the list of members published by the third respondent on 16.08.2018.

PRAYER in W.P.No.22059 of 2018 :

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 in his proceedings in Na.Ka.3531/Koo.th 2 quash the order dated 08.07.2018 and direct the 4th respondent to declare the petitioner and other 10 candidates, whose nominations were accepted and found in Form 20 dated 23.04.2018 prepared by him, as elected to the Board of the Society as provided under Rule 52(9) of the Tamil Nadu Co-operative Societies Rules, 1988 for Gandhi Nagar Co-Operative Society G1304, Gandhi Nagar, Madipakkam, Chennai -91.

For Petitioner in both W.Ps. :Mr.R.Asokan

For Respondents in both W.Ps.:Mr.M.S.Palanisamy
Standing Counsel,
for R1

: Mr.L.P.Shanmugasundaram
Special Government Pleader
for R2 to R4

C O M M O N O R D E R

Both the writ petitions have been filed challenging the order passed by the third respondent rejecting the petitioner's request to include the name of the petitioner and 48 others in the voters list of the third respondent society and also challenging the subsequent order passed by the first respondent.

2. According to the petitioner, he was the previous president of the third respondent society. The election to the third respondent society was scheduled to be held on 23.04.2018 and the list of eligible voters of the society was also published containing the name of 95 members only. Since 49 names of eligible members of the society were not included in the list, the petitioner filed an application before the third respondent, Electoral Officer on 03.04.2018 to include the name of the said 49 members, who were left out in the list. Thereafter, Considering the petitioner's request, the third respondent also included the names of the said 49 members and published a fresh list on 06.04.2018 containing 139 eligible voters including the name of the petitioner. Subsequently, the petitioner has also filed a nomination paper before the third respondent for the post of Director and his nomination was also accepted on 23.04.2018. Similarly, the nominations of other 12 candidates were also accepted. Subsequently, two other candidates withdrew their nomination. Hence, 11 eligible candidates have to be declared as elected, but, no declaration was made by the Election Officer. Subsequently, on 10.08.2018,

the second Respondent, The District Election Officer passed another order rescheduling the election dates. The above schedule has been issued based on the order passed by the first respondent/Election Commissioner on the complaint said to have given by one Mr.C.Sridharan, a member of the society alleging that the above 49 members were not eligible. But while passing that order no notice was given to the petitioner. Based on the above election schedule, a fresh electoral list has been published by the Election Officer on 16.08.2018, in which the name of the said 49 members, whose name were included earlier, had been removed in the said electoral list. In the said circumstances, the petitioner has filed a petition before the first and third respondents to include all those 49 persons. Now, the petitioner's application is pending before the first respondent, while so, the third respondent passed the impugned order dated 20.08.2018 rejecting the petitioner's request. Challenging the same, the present writ petition has been filed.

3. Pending the Writ Petition, now the Election commission considering the complaint given by the petitioner, by an order dated 08.07.2018, cancelled the entire election. Now challenging the same the petitioner filed another petition in W.P.No.22059 of 2018.

4. I have heard Mr. R.Asokan, learned counsel appearing for the petitioner and Mr. M.S.Palanisamy, Standing Counsel appearing for the first respondent and Mr. L.P.Shanmugasundaram, learned Special Government Pleader, appearing for the respondents 2 and 3.

5. The grievance of the petitioner is that already the name of the petitioner and other 48 persons were included in the voters list and nominations were also filed and scrutiny was also over. At that time, based on the complaint given by the one of the members of the society, the first respondent cancelled the election and ordered fresh election. Hence, fresh electoral list was published, wherein the names of 49 members had been removed. Now, based on the complaint given by the petitioner, once again, the Election Commission has passed an order cancelling the election and as on date, the entire election is cancelled and now election is going to be conducted based on the new voters list.

6. In the Earlier Electoral list, the petitioner and other 48 members name found place, but, it has been removed by the third respondent without any enquiry, and the subsequent representation of the petitioner was also rejected without any reason whatsoever. In such circumstances, I am of the considered view that it is suffice to direct the third respondent to conduct enquiry on the complaint given by the petitioner as well as the another member by name C.Sridharan regarding the removal

of the membership and pass orders on merits and in accordance with law, after issuing notice to the petitioner and also C.Sridharan, who has filed earlier complaint, within a period of four weeks from the date of receipt of the copy of the order. Thereafter, based on the order passed by the third respondent regarding the inclusion of members, the first respondent is directed to pass further orders, whether to conduct fresh election to the fourth respondent society.

7. With the above directions, both the Writ Petitions are closed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

mrp/rst
To

- 1.The Tamil Nadu State Co-operative
Election Commissioner
No.273, Scheme road, Subbarayan nagar
Teynampet, Chennai.
- 2.The District Election Officer/Deputy Registrar
of Co-operative societies
Chengalpattu.
- 3.The electoral officer/the sub-Registrar
of Co-operative Societies (Housing)
Office of the Deputy Registrar (Housing)
Chengalpattu.

+2 Ccs to Mr.R. Ashokan, Advocate sr 60448.
+1 CC to Govt. Pleader sr 61262.

W.P.No. 21653 & 22059 of 2018

GJII (CO)
SP(28/09/2018)

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