

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. No. 21115 of 2018
and
W.MP.Nos 24777 & 31265 of 2018

C.Munirathinam

... Petitioner

Vs.

1. The Commissioner,
Tamilnadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Chennai-18.
2. The District Election Officer and
Deputy Registrar of Co-operative Societies,
Krishnagiri Circle,
Krishnagiri District.
3. Thiru G.Gnanasekaran,
Election Officer,
No.615, Kundalappatti Primary Agricultural,
Co-operative Credit Society Ltd.,
Kundalappatti & Post,
Krisnagiri Taluk, Krishnagiri District.
4. Thiru C.Krishnan ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 3 to permit the petitioner to assume the office of the President of the third respondent society as per the declaration dated 11.08.2018 by cancelling the election of the 4th respondent.

For Petitioner : Mr. S.Kamadevan

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 a direction to the respondents 1 to 3 to permit the petitioner to assume the office of the President of third respondent Co-operative Society.

2. According to the petitioner, election to the Board of Directors of the third respondent Co-operative Society was held on 11.04.2018, in which 11 Board of Directors including the petitioner were duly elected and the results were published on 07.08.2018. Thereafter, election to the Office Bearers was notified on 06.08.2018 and the petitioner has filed his nomination to the post of President and one Nagaraj has filed his nomination for the post of Vice-President on 11.08.2018. Since no other nomination was filed, the petitioner and the said Nagaraj were declared elected as Office Bearers of the Society. Subsequently, the third respondent, Election Officer announced the fourth respondent as President on extraneous consideration. Alleging that, the petitioner alone has filed a nomination for the post of President and in the absence of any other nomination, the petitioner was declared elected to the post, but the fourth respondent, who has not even filed any nomination to the post of President, has been now declared as elected by the Election Officer, the present writ petition has been filed.

3. The third respondent, Election Officer, filed his counter affidavit stating that after the completion of the Election to the Board of Directors, the election to the Office Bearers was held on 11.08.2018. Out of 11 Board of Directors, 8 Directors alone attended the meeting and the fourth respondent, Krishnan, and the petitioner, Munirathinam, have filed their nominations for the post of President and one Nagaraj and G.Maheswari have filed the nominations for the post of Vice President. Thereafter, election was held at 12.20 a.m., and counting of vote was started at 12.50 p.m., and the fourth respondent secured six votes for the post of President, likewise, Nagaraj secured six votes for the post of Vice-president. Hence, the fourth respondent was declared elected as President and C.Nagaraj was elected as Vice-President of the third respondent society and the election result was published at 1.20 p.m. Thereafter, Board Meeting was held at 3.00 p.m. and necessary minutes were also recorded. The third respondent denied the allegation of the petition that the petitioner alone has filed the nomination for the post of President. He has also denied the allegation that the election results were declared declaring the petitioner as elected President. The third respondent has not signed any declaration announcing the petitioner was duly elected as President and his signature has been forged by the petitioner. He has not affixed any seal in the said declaration.

4. Earlier, when the matter was taken up for hearing, Mr.S.Kamadevan, learned counsel appearing for the petitioner contended that it is only the third respondent Election Officer declared the petitioner as President and also issued a declaration form duly signed by him. But with malafide intention he is denying the same.

5. In view of the controversy , this Court by an order dated 31.08.2018 directed the Registry to send both the declaration forms issued in favour of the petitioner as well as the fourth respondent for comparing the signature found in the declaration forms by an expert in the Forensic Department. After comparing the signature, the Forensic Science Department sent a report dated 08.10.2018, stating that the signature found in both the declarations is that of the same person, namely, the third respondent, Election Officer.

6. In the meantime, the third respondent, Election Officer filed an application to recall the order dated 31.08.2018, stating that the election to the Office Bearers was scheduled to be held on 11.08.2018. Both the petitioners and the fourth respondent have filed the nomination papers for the post of President and the nomination filed by the fourth respondent, namely, C.Krishnan, has been rejected on the ground that the membership number stated by the fourth respondent is not correct. After rejecting the nomination, the nomination of the petitioner was found valid and he declared the petitioner as duly elected President and he has also issued a certificate to him at about 11.30 a.m, and one Nagaraj, was declared as Vice President and necessary declaration certificate also issued to that effect. The election results were also communicated to the District Election Officer, through the Secretary of the Society. Thereafter, the third respondent Election Officer, received a call from Mr.Radhakrishnan, the Deputy Registrar/Managing Director, Krishnagiri Urban Co-operative Bank Ltd., Krishnagiri, to come to his office. The third respondent also met him at about 3.00 p.m., in the presence of one C.Selvakumar, the District Election Officer, Krishnagiri and both of them informed him that the rejection of nomination of the fourth respondent is not correct and directed him to conduct a fresh election and declare the fourth respondent herein as President. The third respondent Election Officer, refused to conduct fresh election as directed by the said Radhakrishnan. But the third respondent was threatened by him that he would not go to his house if he refuse to obey their direction. The relevant portion of the affidavit is reads as follows :-

" 5. The petitioner submits thereafter at about 1.00 p.m., he received a phone call from the Deputy Registrar/Managing Director, Krishnagiri Urban Co-operative Bank Ltd.,

Krishnagiri, namely Mr.M.Radhakrishnan requiring him to come to the office of the Deputy Registrar of Co-operative Societies/ the District Election Officer, Krishnagiri, immediately. The petitioner submits when he went to the office of the Deputy Registrar, Krishnagiri/ The District Election Officer, Krishnagiri at about 3.00 p.m., the said Mr.M.Radhakrishnan, Deputy Registrar/ Managing Director, Krishnagiri Urban Co-operative Bank Ltd., Krishnagiri, in the presence of Mr.C.Selvakumar, the District Election Officer, Krishnagiri, the 3rd respondent herein, informed him that he should not have rejected the nomination papers of C.Krishnan, the 4th respondent herein, on the ground that the membership number of the proposal was not correctly given and that the declaration of the results by the petitioner herein is not correct. The petitioner submits that in the presence of the District Election Officer, the said Mr.M.Radhakrishnan dictated the petitioner in a loud voice, to conduct fresh election and declare the said C.Krishnan, the 4th respondent herein, elected as President.

6. The petitioner submits since he refused to conduct fresh election as directed, the said Mr. Radhakrishnan informed the petitioner that he would contact his superior namely the Managing Director/ Joint Registrar, Dharmapuri District Central Co-operative Bank Ltd., Dharmapuri and place him under suspension. The petitioner submits that the said Mr.M.Radhakrishnan as well as Mr.P.Mohan, Co-operative Sub-Registrar (PDS), Kaveripattinam, have threatened him that he would no go to his house if he refuse to obey their direction as if he would face danger to his life on his way to his house as the 4th respondent would cause a make believe accident with a lorry. The petitioner submits that the said two officers have also abused him and attempted to assault him."

7. It is further stated in the affidavit that fearing danger to life, the third respondent went to a lodge at Krishnagiri, as directed by the above said person, where, the five Board of Directors and Administrator of the Society were present and he was forced to issue another declaration as if the fourth respondent was declared as elected. Thereafter, when the

writ petition came up for hearing before this Court, the above said Radhakrishnan, Deputy Registrar, one Mohan, Co-operative Sub-Registrar and the fourth respondent, and C.Sivalingam, Secretary of Society forced him to file a counter affidavit before this Court stating that his signature has been forged in the declaration issued in favour of the petitioner. Being a subordinate officer and also there was a threat to his life, he has filed the affidavit before this Court as dictated by the above persons. He has also stated that he has no intention to make incorrect statement before this Court. Due to the life threat given by the higher officials, he was compelled to file the earlier affidavit, he has also tendered apology for the same.

8. Considering the present stand taken by the Election Officer, it is very clear that the election to the post of President to the Society was not conducted in a free and fair manner. In the said circumstances, I am of the view that the election already held to the post of President should necessarily be set-aside and a fresh election should be conducted.

9. Accordingly, the election already held to the post of President is set-aside and consequently, the first respondent is directed to issue a fresh schedule for conducting election to the post of President of the third respondent Society.

10. Regarding the allegations made by the third respondent in the present affidavit that the higher officials have intimidated him to change the results, the Joint Registrar, Co-operative Society, Krishnagiri, is directed to conduct an enquiry in respect of the allegations made by the third respondent and submit report before the Registrar of Co-operative Society, the Registrar, Co-operative Society is further directed to take suitable action based on that report.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Commissioner,
Tamilnadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Chennai-18.
 2. The District Election Officer and
Deputy Registrar of Co-operative Societies,
Krishnagiri Circle,
Krishnagiri District.
 3. Thiru G.Gnanasekaran,
Election Officer,
No.615, Kundalappatti Primary Agricultural,
Co-operative Credit Society Ltd.,
Kundalappatti & Post,
Krisnagiri Taluk, Krishnagiri District.
- +1cc to Mr.J.Kamadevan, Advocate, S.R.No. 80805
+1cc to Mr.P.Mani, Advocate, S.R.No. 81013
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No. 81534
+1cc to the Government Pleader, S.R.No. 81760

W.P. No. 21115 of 2018

SR(CO)
GN(05/02/2019)

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