

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.10.2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. 21440 of 2018

&

W.M.P.s 25184 to 25186 of 2018

1. V.Krishnamurthy
2. P.Lakshmi

.. Petitioners

-Versus-

1. The Election Officer,
S-836, Royakottai Primary Agricultural
Cooperative Credit Society,
Royakottai Post, Sulagiri Taluk,
Krishnagiri Dt.
2. S-836, Royakottai Primary Agricultural
Cooperative Credit Society,
Royakottai Post, Sulagiri Taluk,
Krishnagiri Dt.
3. S.Baby
4. Kamala
5. Thulasiammal,
6. M.Marammal
7. K.Lalitha
8. K.Subramani
9. Pavunraj
10. M.Munusamy
11. M.Purusappan
12. M.Santhakumar
13. M.Kanagaraj

14. The Election Commissioner,
for Cooperative Societies,
Raja Annamalaipuram,
Chennai-600 028.

.... Respondents

(R-14-impleaded as per order dt.28.8.2018
by VBDJ in WMP 25838/2018 in WP 21440/2018)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent dated 07.08.2018 and quash the same and consequently, direct the 1st respondent to conduct the election in a free and fair and impartial manner.

For Petitioners : Mr.N.Umapathi
For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader
for R1 & R2
: Mr.M.S.Palaniswamy,
Standing Counsel for R14

ORDER

This writ petition has been filed challenging the election conducted to the Board of Directors to the 2nd respondent cooperative society.

2. The grievance of the petitioners is that the election to the Board of Directors to the 2nd respondent society was conducted in the month of May 2018, in which the petitioners were declared elected by the 2nd respondent on 03.05.2018 and the declaration was also issued in Form-22 on that day. In pursuant to the order passed by the Division Bench of this Court, further action was not taken. Subsequently, on 07.08.2018, the 3rd respondent issued another declaration and issued Form-22, wherein the petitioners names were found missing instead some other person's name was included. In the said circumstances, the present Writ Petition has been filed by the petitioners claiming that once the petitioners were declared elected on 03.05.2018, now it is not open to the 2nd respondent to issue a fresh election declaration, especially omitting the name of the petitioners.

3. The 1st respondent has filed a counter affidavit, wherein it is stated that the election to the Board of Directors to the 2nd respondent society was scheduled to be held on 30.04.2018, in which 51 members, including the petitioners have filed their nominations and after scrutiny of nominations, 28 nominations were rejected for various reasons leaving 23 valid nominations. The list of valid nominations was published on 02.05.2018, and the next day was fixed for withdrawal of nominations. On the date of withdrawal, 12 nominations were withdrawn leaving only 11 eligible contesting candidates and hence, he has published the list of following 11 persons as eligible candidates on 03.05.2018 itself:-

Sl.No.	Membership No.	NAME OF CANDIDATES
1.	4625	S.Baby
2.	4235	Lakshmi
3.	22169	Thulasiammal
4.	6040	K.Munirathinam

Sl.No.	Membership No.	NAME OF CANDIDATES
5.	2326	K.Lalitha
6.	1449	K.Subramani
7.	1639	V.Krishnamoorthy
8.	4039	M.Munisamy
9.	3192	M.Purasappan
10.	5969	M.Santhakumar
11.	3429	M.Thippan

Subsequently, in view of the order passed by this Court, the result was not declared. Thereafter, as per the order passed by this Court on 03.08.2018, and as per the revised election schedule, he went to the society on 07.08.2018 at about 10.00 a.m. to declare the results, at that time, about nine persons have gathered around him, and threatened him, and took him to an isolated place, and coerced him to remove the name of four persons, who were already declared as eligible candidates and to include the names of other four persons and forced to him to issue a fresh list. Thereafter, a fresh list has been typed and they have obtained the signature forcibly. Out of fear for life and coercion, he was compelled to issue a fresh list removing the names of four persons already declared elected and included the name of other four persons and he has also submitted that the election result was declared on 07.08.2018 declaring 11 persons elected unopposed is wrong and the same is not sustainable and valid in law.

4. Earlier, notice was ordered to all the 11 candidates viz., respondents 3 to 13, who were declared elected in the election held on 03.05.2018 and their names were also printed in the causelist, but none appeared today.

5. Considering the fact that now, the Election Officer himself has come out to file an affidavit stating that the impugned election declaration issued on 07.08.2018, is not valid one, and he was compelled to issue the list by threat and coercion. On the basis of the affidavit filed by the Election Officer, I find that the impugned election declaration dated 07.08.2018 issued by the 2nd respondent is vitiated by fraud and they are not duly elected in accordance with law. In the said circumstances, I have no other option except to set aside the impugned election declaration published on 07.08.2018 and this Writ Petition is allowed and consequently, the 14th respondent is directed to issue a fresh election schedule for election to the 2nd respondent society.

6. In the result, the Writ Petition is disposed of with the above direction. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Election Officer,
S-836, Royakottai Primary Agricultural
Cooperative Credit Society,
Royakottai Post, Sulagiri Taluk,
Krishnagiri Dt.
2. S-836, Royakottai Primary Agricultural
Cooperative Credit Society,
Royakottai Post, Sulagiri Taluk,
Krishnagiri Dt.
3. The Election Commissioner,
for Cooperative Societies,
Raja Annamalaipuram,
Chennai-600 028.

+1cc to Mr.S.Prabavathy, Advocate, S.R.No.73624
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.72902
+1cc to the Government Pleader, S.R.No.73466
+1cc to Mr.N.Umapathi, Advocate, S.R.No.72599

सत्यमेव जयते

W.P. 21440 of 2018
and

W.M.P. 25184 to 25186 of 2018

GP(CO)

rrs 27/11/2018

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