

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.11597 of 2018

and

W.M.P.Nos.13571 and 13572 of 2018

1.K.R.Rajendran

2.A.P.Murugesan

..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
Salem Circle, Salem District.

3.The Election Officer

S.1494, The Salem NGO'S Co-operative Stores Ltd
Dr.Ramanathan Road, Salem-636 001, Salem District.

..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 in his proceedings in Na.Ka.2701/2018/Koo. The dated 26/04/2018 relating to the cancellation of election to the post of Board of Directors of the S.1494, The Salem NGO'S Co-operative Stores Ltd, Dr.Ramanathan Road, Salem-636 001, Salem District and quash the same and consequently direct the third respondent to declare the election of the petitioners as Board of Directors of the second respondent society.

For Petitioner :Mr.S.Kamadevan

For Respondents :Mr.M.S.Palanisamy
Standing Counsel
for R1

Mr.L.P.Shanmugasundaram
Special Government Pleader
for R2 and R3

O R D E R

This writ petition has been filed challenging the order passed by the first respondent/Election Commission cancelling the election conducted to the Board of Directors of the third respondent society.

2. According to the petitioners, the election to the Board of Directors of the society was scheduled to be held from 09.04.2018. Thereafter, 19 nominations were filed and scrutiny of the nomination was conducted on 23.04.2018. The nominations which were found valid, were accepted and a final list of eligible candidates were also published by the third respondent/Election Officer, in which the name of the petitioners were found. At that stage, the first respondent canceled the entire election without giving any notice to the petitioners. Hence, the present writ petition is filed.

3. Today when the matter is taken up for hearing Mr.M.S.Palanisamy, Standing Counsel, appearing for the first respondent, on instructions, submitted that, since some of the members of the society has filed complaints before the first respondent regarding the rejection of nomination, the election was earlier cancelled. Subsequently, the first respondent in and by his proceedings dated 18.06.2018, passed an order to resume the election from the stage of scrutiny of nomination and he has produced copy of the said order.

4. The learned counsel appearing for the petitioners would contend that earlier election was cancelled after the scrutiny of nomination. Now without assigning any reason whatsoever, the first respondent has passed an order resuming the election from the stage of scrutiny. In the said Circumstances, since order is being passed without giving any reason, the order is not valid in the eye of law.

5. I have considered the rival submissions.

6. Even though the petitioners have challenged the earlier order passed by the first respondent cancelling the election to the society, in view of the subsequent proceedings, now the Commission has passed an order for resuming the election from the stage of scrutiny of nomination.

7. Even though under section 52(18)(C) , the first respondent has power to resume the election where it was stopped or at any appropriate stage. However, when the election commission passing any order resuming the election from the stage prior to the stage where it was stopped, he must give some valid reason for the same. From the perusal of the order passed by the first respondent dated 18.06.2018 no reason has been stated by the Election Commissioner.

8. In the said circumstances, without going in to the merits of the case, the matter is remanded to the first respondent. The first respondent is directed to pass a reasoned order after giving opportunity to the petitioners and other persons interested within a period of four weeks from the date of receipt of copy of the order. Consequently connected miscellaneous petitions are closed. No costs.

mrp/rst

Sd/-

Assistant Registrar(CS-CO)

//True Copy//

Sub Assistant Registrar

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
Salem Circle, Salem District.
 - 3.The Election Officer
S.1494, The Salem NGO'S Co-operative Stores Ltd
Dr.Ramanathan Road, Salem-636 001, Salem District.
- +1cc to Mr.S.Kamadevan, Advocate S.R.No.62094
+1cc to Mr.L.P.Shanmugasundaram, Advocate S.R.No.62211
+1cc to the Government Pleader, S.R.No.62675

KR/16/10/18

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