

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. No. 22833 of 2018

R. Jagadeeswaran

... Petitioner

Vs

1. The State Election Commissioner,
Cooperative Election,
Kamadhenu Super Market Building
No.273, Scheme Road,
Subburaya Nagar, Teynampet,
Anna Salai, Chennai-18
2. The District Election Officer/
Deputy Registrar of Cooperative Societies,
Dharapuram Circle, Dharapuram,
Tiruppur District.
3. The Election Officer,
K.1235 Moongilthozhuvu Primary
Agricultural Cooperative Credit Society
Moongilthozhuvu, Jakkarpalayam via,
Udumalpet, Tiruppur District. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to entertain the petitioner's objection dated 27.08.2018 and conduct proper enquiry for cancelling the election and order for reelection for the K.1235 Moongilthozhuvu Primary Agricultural Cooperative Credit Society, Moongilthozhuvu, Jakkarpalayam Via, Udumalpet, Tiruppur District.

For Petitioner : Mr. C. Prakasam

For Respondents : Mr.M.S. Palaniswamy,
Standing Counsel for R1

Mr. L.P. Shanmugasundaram,
Special Government Pleader
for R-2 and R-3

O R D E R

This Writ Petition has been filed seeking for a direction directing the 1st respondent to entertain the petitioner's objection dated 27.08.2018.

2. The grievance of the petitioner is that the election to the 3rd respondent society was scheduled to be held earlier on 30.04.2018, in which the petitioner along with other 33 candidates have filed their nomination and after scrutiny, 23 nominations were found valid including that of the petitioner. Thereafter, the election was cancelled and a fresh election was notified and scheduled to be held on 25.08.2018. For which, the petitioner along with other 35 candidates have filed their nominations. But, without passing any order, the 3rd respondent has rejected 11 nominations including that of the petitioner. In such circumstances, the petitioner has sent a complaint to the 1st respondent to cancel the election and to conduct fresh election on 27.08.2018. Since the above complaint was not considered by the 1st respondent, the present Writ Petition has been filed by the petitioner.

3. Mr.L.P.Shanmugasundaram, learned counsel appearing for the respondents 2 and 3 submitted that already the election to the Board of Directors was already over on 28.08.2018, in which the candidates declared elected. Subsequent to that, the election to the office-bearers was conducted and the office-bearers also have taken charge. In the circumstances, the petitioner's grievance cannot be considered.

4. According to the petitioner, their nominations have been rejected by the 3rd respondent on 27.08.2018. In the said circumstances, he has filed a complaint on 28.08.2018, which was also received by the 3rd respondent. Since the petitioner has submitted the complaint before the 1st respondent even before the declaration of election, no order has been passed in the petitioner's representation.

5. I have heard the rival submissions made by Mr.C.Prakasam, learned counsel for the petitioner as well as Mr.M.S.Palaniswamy, learned standing counsel for the 1st respondent and Mr.L.P.Shanmugasundaram, learned Special Government Pleader for respondents 2 and 3 and perused the records carefully.

6. On perusal of the records, it is seen that the petitioner has already sent a complaint before the 1st respondent on 28.08.2018 even before the declaration of election and now the complaint is pending with the 1st respondent. In the said

circumstances, as per order dated 31.08.2018 passed by this Court in the Writ Petition in W.P.No.11145 of 2018 etc. batch (M.Sadhasivam Vs. State of Tamil Nadu and others), since the complaint has been filed before declaration of election, the complaint is now pending before the 1st respondent. Therefore, the 1st respondent is directed to consider the petitioner's objection and pass suitable orders on merits and in accordance with law after giving opportunity to the petitioner and other interested persons within a period of six weeks from the date of receipt of the copy of this order.

7. With the above direction, the present Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ppp

To

1. The State Election Commissioner,
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Kamadhenu Super Market Building
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Agricultural Cooperative Credit Society
Moongilthozhuvu, Jakkarpalayam via,
Udumalpet, Tiruppur District.

+1cc to M/S.C.Prakasam, Advocate Sr.63384
+1cc to M/S.L.P.Shanmugasundaram, Advocate Sr.63066
+1cc to the Government Pleader Sr.63437

W.P. 22833 of 2018

srg 23/10/2018