

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03..09..2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.22879 of 2018
and
W.M.P.No.26753 of 2018

K.R.Loganathan

... Petitioner

-Versus-

- 1.The Commissioner,
Tamil Nadu State Co-op. Societies Election,
Commission Kamadhenu Super Market,
Building(1st Floor) 273 Anna Salai,
Teynampet Chennai-600018.
- 2.The Registrar of Co-operative,
Societies/ State Election Officer,
Kilpauk,
Chennai-600010.
- 3.The District Election Officer/
Deputy Registrar Co-operative Societies,
Dharapuram Circle,
Dharapuram, Tiruppur District.
- 4.The Election Officer,
TP. SPL. 34 Ganapathipalayam Primery
Agriculture Co-op. Loan Society Ltd.,
Ganapathipalayam,
Thammaratipalayam Post,
Kangayam Taluk,
Tiruppur District.

5.Mr. Murugesu

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF CERTIORARI FIED MANDAMUS calling for the records of the 4th respondent vide his proceedings in Form No. 22 dated 28.08.2018 quash the same by declaring the Undemocratic Co-operative Societies Election 2018 (Election for the Cancelled Societies) in so far as the 4th respondent Society as unconstitutional as it was done without following mandates of law and consequently directing the 1st respondent or any other competent authority appointed by the

1st respondent to initiate the election process afresh of the 4th respondents society

For Petitioner	: Mr.D.Gopal
For Respondents	: Mr.M.S.Palanisamy, Standing Counsel for R1
	Mr.L.P.Shanmugasundaram, Spl. Govt. Pleader for R2 to R4

ORDER

This writ petition has been filed challenging the declaration of election published by the Election Officer dated 28.08.2018 declaring the duly elected Board of Directors of the 4th respondent society.

2. According to the petitioner, earlier when election was conducted to the Board of Directors of the 4th respondent society, he had filed nomination. That election was subsequently cancelled in view of the order passed by the 1st respondent. Subsequently, reelection was ordered to be conducted and election schedule was also issued accordingly. The grievance of the petitioner is that during the subsequent election, on the date of nomination, when he went to file his nomination papers, he was prevented from filing his nomination papers and two FIRs have been registered against him falsely in order to prevent him from filing nomination papers. He sent representations to the police authorities and to the Human Rights Commission in this regard. While so, the impugned declaration has been published and hence this writ petition.

3. Heard both sides.

4. It is the settled law that once the election is over, the only remedy available to the aggrieved person is to file a petition under Section 90 of The Tamil Nadu Cooperative Societies Act. A Division Bench of this court in W.P.No.7526 of 2018 etcetera batch - R.Sakkarapani, Member of Legislative Assembly, Oddanchathiram Constituency v. State of Tamil Nadu and others has also held so. In W.P.No.11145 of 2018 etc., batch - M.Sadhasivam v. The State Tamil Nadu Co-operative Societies Election Commissioner, following the above said judgement of the Division Bench of this Court, I have held that in cases where the elections were already over and the results were declared before filing of objection / complaint by the petitioners, the only remedy available to the person affected is to file a petition under Section 90 of the Tamil Nadu

Cooperative Societies Act, as directed by the Division Bench of this court.

5. In the light of the above legal position, this court is of the view that the writ petition is not maintainable and the same is liable to be dismissed. However, the petitioner is at liberty to file a petition under Section 90 of The Tamil Nadu Cooperative Societies Act before the appropriate forum.

6. In the result, the writ petition is dismissed with the above observation. Consequently, connected MPs are closed.

Sd/-

Assistant Registrar (CS v)

//True Copy//

Sub Assistant Registrar

kmk

To

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Thammaratipalayam Post,
Kangayam Taluk, Tiruppur District.

+1cc to Mr.D.Gopal, Advocate SR.No. 60531

+1 CC TO GOVERNMENT PLEADER SR.NO. 61265

W.P.No.22879 of 2018

ASK(09/10/2018)