

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.09.2018
CORAM
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN
W.P. 12454 of 2018
and
W.M.P.s 14587 & 14588 of 2018

M.Chennakesavan

... Petitioner

Vs

1. The Commissioner,
Tamil Nadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Chennai-600 018.
2. The District Election Officer and
Deputy Registrar of Co-operative
Societies, Dharmapuri, Dharmapuri Dt.
3. The Election Officer,
S.8633, Pariannahalli Primary
Agricultural Co-operative Credit
Society Ltd.,
Periannahalli & Post,
Dharmapuri Taluk, Dharmapuri Dt.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.No.321/2018/Koo.The.1(2) dt. 09.08.2018 in so far as it relates to the cancellation of elections of the 3rd respondent society and quash the same and consequently direct the respondents to continue the election to the Board of Directors from the stage where it was stopped by the 3rd respondent Election Officer.

For Petitioner : Mr.Kamadevan
For Respondents : Mr.M.S.Palaniswamy,
Standing Counsel for R-1
Mr. L.P.Shanmugasundaram,
Special Government Pleader
for Respondents 2 and 3

O R D E R

This Writ Petition has been filed for challenging the order passed by the 1st respondent cancelling the entire election conducted to the 3rd respondent co-operative society.

2. According to the petitioner, the election to the Board of Directors of the 3rd respondent society was scheduled to be held on 16.04.2018, for which, 73 nominations were filed and after scrutiny of nominations, 33 nominations were found valid. Thereafter, without conducting election, an order has been passed by the 3rd respondent postponing the election.

3. Earlier, challenging the above order passed by the 3rd respondent, the petitioner has filed the Writ Petition and pending Writ Petition, now the 1st respondent had passed the impugned order dated 09.08.2018 cancelling the entire election to the 3rd respondent society. Hence, the prayer sought by the petitioner in the Writ Petition was now amended with the prayer challenging the order passed by the 1st respondent dated 09.08.2018.

4. Mr.Kamadevan, learned counsel appearing for the petitioner submitted that when the election process has been announced, the nominations have been filed and the scrutiny was also over, at that stage, the 3rd respondent had postponed the election. Subsequently, now without assigning any reasons whatsoever, the 1st respondent passed the impugned order cancelling the entire election to the 3rd respondent society.

5. According to the petitioner, under Rule 52(18)(a) of the Rules, if the 1st respondent wants to cancel the election, he has power to cancel the election on recording the reasons for the same, but, without assigning any reasons, the 1st respondent had passed the impugned order cancelling the election.

6. Mr. L.P.Shanmugasundaram, learned counsel appearing for the respondents 2 and 3, based on the report submitted that the 3rd respondent could not conduct the election in a free and fair manner and on considering the other materials available on record, the 1st respondent had passed the impugned order and there is no illegality in it.

7. Earlier, after scrutiny of nominations and publication of valid nominations, the 3rd respondent Election Officer had postponed the election. Thereafter, the present order has been passed by the 1st respondent, thereby cancelling the election to the 3rd respondent Cooperative Society without assigning any reason. Even though the 1st respondent is empowered to cancel the election under Rule 52(18)(a) of the Tamil Nadu Cooperative Societies Rules, while cancelling the election, the 3rd respondent ought to have given valid reason for the same and he cannot pass a non-speaking order and cancel the entire election, and on the ground, the impugned order passed by the 1st respondent is liable to be set aside and accordingly, it is set aside. Now, the matter is remanded back to the 1st respondent and

the 1st respondent is directed to pass a detail order after giving reasons for the same within a period of four weeks from the date of receipt of the copy of this order.

8. In view of the above, the present Writ Petition stands disposed. No costs. Consequently, the connected Writ Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Tamil Nadu State Co-operative
Societies Election Commission,
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Chennai-600 018.
2. The District Election Officer and
Deputy Registrar of Co-operative
Societies, Dharmapuri, Dharmapuri Dt.
3. The Election Officer,
S.8633, Pariannahalli Primary
Agricultural Co-operative Credit
Society Ltd.,
Pariannahalli & Post,
Dharmapuri Taluk, Dharmapuri Dt.

+1cc to Mr. S.Kumaradevan, Advocate, S.R.No. 62900
+1cc to Mr. L.P.shanmugasundaram, Advocate, S.R.No. 63416
+1cc to the Government Pleader, S.R.No. 63430

W.P. 12454 of 2018
and
W.M.P. 14587 & 14588
of 2018

KS (CO)
GN (22/10/2018)