

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. No. 24485 of 2018

S.Murugaiyan

... Petitioner

Vs.

1.Tamil Nadu State Co-operative Societies,
Election Commissioner
No.273, Kamadhenu Supermarket, I Floor,
Anna Salai,
Chennai-600 018.

2.Joint Registrar of Co-operative Societies,
Zonal Election Officer (Co-operative Societies),
Nagapattinam.

3.Election Officer,
Z.262, Maruthur North Primary Agricultural
Co-operative Credit Society,
Nagapattinam 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 consider the petitioner's representation dated 26.08.2018 requesting to cancel the election for the posts of president and Vice-President of Z.262, Maruthur North Primary Agricultural Co-operative Credit Society, Vedaranyam Taluk, Nagapattinam District by conducting personal enquiry and in accordance with Law and to conduct fresh election to those posts within a reasonable time to be fixed.

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.S.Palaniswamy
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 seeking a direction to the first respondent to consider the petitioner's representation dated 26.08.2018 and cancel the election to the Office Bearers of the third respondent society.

2. The grievance of the petitioner is that he was one of the elected Board of Directors of the third respondent society. Subsequently, the election of the Office Bearers was conducted and the petitioner has also participated in the election and cast his vote. At the time of counting, the Election Officer announced that his vote was invalid vote. Then the petitioner requested the Election Officer to accept his vote as a valid vote, but his request was not considered, so the petitioner sent a representation to the first respondent, Election Commission. Since the representation was not considered by the first respondent, the present writ petition has been filed.

3. Today, when the matter is taken up for hearing, the third respondent, Election Officer is present before this Court and submitted that the entire records including the ballot paper.

4. On perusal of the ballot paper, it is seen that one vote was declared as invalid vote. Now, the Election Officer submitted that he was not aware that the invalid vote is that of the petitioner and there is also no proof that the petitioner's vote has been declared as invalid vote, as the election has been conducted by way of secret ballot. In the said circumstances, it is only a presumption of the petitioner that his vote has been declared as invalid vote, and there is no proof to show that the ballot paper was rejected as invalid is that of the petitioner. Apart from that, it is settled law that once election is over, the only remedy available to the petitioner is to challenge the election by way of filing a petition under Section 90 of the Tamil Nadu Co-Operative Societies Act, if the petitioner has any grievance over the same. The Election Commission has no power to decide into the dispute.

5. Considering the above facts and circumstances, this writ petition is dismissed. However, it is always open to the petitioner to file appropriate petition under Section 90 of the

Tamil Nadu Co-operative Societies Act challenging the election raising all the grounds available to him, if he so adviced. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrp

To

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Election Commissioner
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Chennai-600 018.

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Zonal Election Officer (Co-operative Societies),
Nagapattinam.

3.Election Officer,
Z.262, Maruthur North Primary Agricultural
Co-operative Credit Society,
Nagapattinam District.

+1 cc Mr.R.Neelakandan, Advocate, SR.No. 65304

+1 cc Mr.L.P.Shanmugasundaram, Advocate, SR.No.65436

+1 cc to The Government Pleader, SR.No.65843

W.P. No. 24485 of 2018

KS (CO)
CSL/23.10.2018

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