

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 22925 of 2018

and

W.M.P.s 26822 to 26824 of 2018

1. K.S.Samikannu
2. K.P.Anbu
3. K.C.Govindaraju
4. C.K.Subramani
5. Tmt.Dhanalakshmi
6. Tmt. Lalitha
7. Tmt. K.Kanakarani
8. K.G.Thirupathy

... Petitioners

Vs

1. The Commissioner,
Tamil Nadu State Cooperative
Societies Election Commissioner,
No.273, Kamadhenu Super Market,
Chennai-600 018.
2. The District Election Officer and
Deputy Registrar of Cooperative
Societies, Tirupattur Circle,
Vellore District.
3. The Election Officer,
DRL. (V) 7 Kandili Cooperative Primary
Agricultural and Rural Development Bank,
Kandili and Post,
Tirupattur Taluk,
Vellore District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders of the first respondent in Na.Ka.6309/2018 Koo.The2 dated 16.08.2018 relating to the cancellation of elections of the third respondent bank

and quash the same and consequently direct the respondents to permit the petitioners to function as the Board Directors and Office Bearers.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.M.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 challenging the order passed by the 1st respondent Election Commission setting aside the election to the Board of Directors as well as the office-bearers of the 3rd respondent society.

2. According to the petitioners, the election to the Board of Directors to the 3rd respondent society has been conducted and the petitioners were elected as Board of Directors. Subsequently, the election to the office-bearers was held on 07.08.2018. Thereafter, the entire Board has taken charge. At this stage, without any notice to the petitioners, the entire election has been set aside.

3. Mr.S.Kamadevan, learned counsel appearing for the petitioners submitted that the impugned order has been passed without any notice to the petitioners, based on the complaint given by the third parties. That apart, once the election is declared, the 1st respondent Election Commission has no power to set aside the election.

4. On the other hand, the learned counsel appearing for the 1st respondent submitted that based on the complaint given by one Gunasekaran dated 16.08.2018, the impugned order has been passed on the ground that, the person, whose name is not found place in the voters list has been now declared as Board of Directors. Considering the above complaint, the impugned order has been passed.

5. I have considered the rival submissions and perused the records carefully.

6. A perusal of the impugned order, it could be seen that the complaint has been filed before the 1st respondent on 16.08.2018, and on the very same day, the election commission has passed the impugned order without any notice to the

petitioners, who are elected as Board of Directors. In the said circumstances, the impugned order is liable to be set aside. Accordingly, it is set aside, and the order is remanded back to the 1st respondent, and the 1st respondent is directed to issue notice to the petitioner, and to conduct an enquiry, and pass suitable orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of the copy of this order. It is always open to the petitioners to raise their objections before the 1st respondent at the time of enquiry.

7. In the result, this Writ Petition is allowed with the above direction. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Tamil Nadu State Cooperative
Societies Election Commissioner,
No.273, Kamadhenu Super Market,
Chennai-600 018.
2. The District Election Officer and
Deputy Registrar of Cooperative
Societies, Tirupattur Circle,
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3. The Election Officer,
DRL. (V) 7 Kandili Cooperative Primary
Agricultural and Rural Development Bank,
Kandili and Post,
Tirupattur Taluk, Vellore District.

+1cc to Mr.S.Kamadevan, Advocate Sr.74991
+1cc to the Government Pleader Sr.75310

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ssv[col]
srg 10/12/2018