

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.10.2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.25410 of 2018

R.Thillai Govindan

... Petitioner

-Versus-

- 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,
Cuddalore Circle,
Cuddalore, Cuddalore District.
- 3.The Election Officer,
E.2580 Vazhisothanaipalayam Primary
Agricultural Cooperative Credit Society,
Vazhisothanaipalayam,
Village and Post - 607003
Cuddalore Taluk, Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to dispose the representation filed by the petitioner on 07.09.2018 by giving opportunity to the petitioner within the time to the stipulated by this court.

For Petitioner

: Mr.C.Prakasam

For Respondents

: Mr.M.S.Palaniswamy, Standing
Counsel for 1st respondent
Mr.L.P.Shanmugasundaram,
Spl. govt. Pleader for
Respondents 2 & 3

ORDER

This writ petition has been filed seeking to issue a direction to the 1st respondent in the form of writ of mandamus for considering the representation of the petitioner dated 07.09.2018, for cancellation of the election conducted on 16.08.2018 to the Board of Directors of the 3rd respondent society and to order for re-election.

2. The grievance of the petitioner is that the election to the Board of Directors of the 3rd respondent society was originally scheduled to be held in the month of May 2018 and there were totally 42 nominations filed besides the nomination of the petitioner. After the process of scrutiny of nominations was over, list of eligible candidates for contesting election was published by the 3rd respondent. Thereafter, pursuant to the order of this court, the election was postponed. Thereafter, based on the order passed by this court, election was resumed and final list of eligible candidates for contesting election was published and election was also held on 16.08.2018. Further, according to the petitioner, during election, the ruling party members did not allow the members including the petitioner to cast their votes and contesting candidates alone were permitted to cast their votes. In the said circumstances, the petitioner had sent a representation to the 1st respondent on 07.09.2018 for cancellation of election and to order re-election. That representation has not yet been considered by the 1st respondent. Hence, this writ petition.

3. Heard both sides and perused the available materials carefully.

4. Admittedly, the election was held on 16.08.2018 and only thereafter, the petitioner made his representation to the 1st respondent on 07.09.2018 seeking to cancel election and to order for re-election. In *R.Sakkarapani, MLA, Oddanchathiram Constituency v. State of Tamil Nadu* [W.P.No.7526 of 2018 dated 03.08.2018], Division Bench of this court has already held that once the election was over, the 1st respondent has got no power to decide the issue and the only remedy available to the aggrieved is to approach the appropriate forum under Section 90 of The Tamil Nadu Cooperative Societies Act. Under such circumstances, this court is of the view that no such direction can be given to the 1st respondent and therefore, the writ petition is liable only to be dismissed.

5. In the result, the writ petition is dismissed, however, it is made clear that it is always open to the petitioner to challenge the election in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kmk

To

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Cuddalore Taluk, Cuddalore District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.68239
+1cc to Mr.L.P.shanmuga Sundaram, Advocate, S.R.No.688885
+1cc to the Government Pleader, S.R.No.68131

SPD(CO)

rrs 04/12/2018

W.P.No.25410 of 2018

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