

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.27010 of 2018
and WMP.Nos.31402, 31403 and 32798 of 2018

1. T.Sakthivel
2. S.Manimegalai
3. G.Manimegalan
4. V.C.Gowdhaman
5. T.S.Murugan
6. A.Maniasaru ... Petitioners

Vs

1. The Co-Operative Societies
Election Commissioner,
Tamil Nadu Co-operative Societies Election Commission,
No.273, Kamadhenu Supermarket,
I floor, Anna Salai, Chennai - 600 018.
2. The District Revenue Officer /
Managing Director (in-charge)
Tirupattur Co-operative Sugar Mills Limited,
Dharmapuri District, Tamil Nadu.
3. The Deputy Registrar of Co-operative Societies/
The District Election Officer,
Dharmapuri District, Tamil Nadu.
4. The Election Officer,
S-8, Subramania Siva Co-operative Sugar Mill Limited,
Gopalapuram - 636 904, Pappireddipatti Taluk,
Dharmapuri District, Tamil Nadu. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 4th respondent's impugned list of eligible candidates published by him on 08.10.2018 and culminating in the impugned proceedings issued by him on 09.10.2018, quash the same and direct the respondents to properly and correctly re-draw the eligible list of members/voters by deleting the names of all the deceased members, accept the nominations of the petitioners 1 to 3 which have been illegally rejected and include their names in the list of eligible candidates as well as contesting candidates, including the names of the petitioners 4 and 5 in the list of contesting candidates and to thereafter conduct the election of Members/Directors to the Board of the S-8, Subramania Siva Co-operative Sugar Mill Limited, Gopalapuram -

636 904, Pappireddipatti Taluk, Dharmapuri District, Tamil Nadu, in a fair and democratic manner in accordance with the Tamil Nadu Co-operative Societies Act, 1983 and the Tamil Nadu Co-operative Societies Rules, 1988, within a stipulated time and under the supervision of a Committee to be nominated by this Court.

For petitioners : M/s.Arun Anbumani
For respondents : Mr.M.S.Palanisamy, for R1

Mr.Bala Ramesh, for R2 to 4
Mr.L.P.Shanmugasundaram, Spl.G.P., for R3

ORDER

Challenging the eligible candidates list published by the fourth respondent, the present Writ Petition has been filed.

2. The grievance of the petitioners is that election to the 4th respondent-Society was scheduled to be held on 11.10.2018, for which, nominations were received on 06.10.2018. Totally, 126 nominations have been filed including that of the petitioners. During the scrutiny of the nominations, the fourth respondent / Election Officer rejected the nominations of the petitioners 1 to 3 without assigning any reason whatsoever. Thereafter, released a list of 88 valid eligible candidates, in which, names of the petitioners 4 to 6 were found. Thereafter, on the date of withdrawal, the fourth respondent published the list of 17 selected candidates, wherein, names of the petitioners 4 to 6 were missing. On enquiry, it was informed that they have withdrawn their nomination. Immediately, the petitioners sent a representation to the first respondent-Election Commission alleging the irregularity and also filed the Writ Petition.

3. Earlier notice sent to the respondents. Now, the fourth respondent has filed a counter affidavit stating that the nominations of the petitioners 1 to 3 and 5 have been rejected on the ground that the candidates have signed the nominations for another candidate and the signature of the candidates are not genuine and so far as the petitioners 4 and 6 are concerned they have withdrawn their nominations. The relevant portion of the said counter affidavit is extracted below:

Sl. No.	Name of the petitioner	Reasons for rejection of nomination	Rule provision of TNCS 1983 contrary to Rules 52 (8) (b)
1.	T.Sakthivel	1. The candidate has signed the nomination for another candidate. 2. Signature of the candidate and of the seconder are not genuine.	Rule 52 (8) (d) (3)
2.	S.Manimegalai	1. The seconder of this nomination has seconded the nomination of another candidate. 2. Signature of the proposer not genuine. 3. The candidate does not know to write as revealed during enquiry.	Rule 52 (8) (d) (iii)
3.	V.C.Gowdhaman	1. Nomination was filed by the third person, not by the candidate or proposer or seconder. 2. Col.No.2 not filed correctly	He has withdrawn his nomination
4.	T.S.Murugan		He has withdrawn his nomination
5.	A.Manimegalan	Signature of the seconder is not genuine	Rule 52(8) (d) (iii)
6.	A.Maniasaru	1. Signature of the candidate not genuine. 2. Signature of the seconder not genuine.	He has withdrawn his nomination

4. The learned counsel for the petitioners contended that as per Rule 52 (8) (aa) of the Tamil Nadu Co-Operative Societies Rules, the petitioners nomination cannot be rejected on the ground that they have proposed nomination for some other persons. That apart, as per the circular issued by the Election Commission on 19.07.2018, the nomination cannot be rejected for trivial reason that the signature of the candidate varies. That apart, so far as the petitioners 4 and 6 are concerned, they have not at all withdrawn the nominations and they are ready and willing to contest the election. The petitioners signatures have been forged and held that they have withdrawn their nominations.

5. I have heard the rival submissions and perused the materials available on records carefully.

6. According to the Election Officer, nominations of the petitioners 1 to 3 and 5 have been rejected for the reasons that their signature varies and they have proposed nomination for other candidates. Apart from that so far as the petitioners 4 and 6 are concerned, it is stated that they have withdrawn their nominations, which was disputed by the petitioners.

7. According to the petitioners, as per Rule 52 (8) (aa), nomination cannot be rejected on the ground that a candidate proposed nomination for some other persons. That apart, the petitioners have already sent a detail complaint to the first respondent even before the conduct of the election on 09.10.2018.

8. This Court in another batch of similar Writ Petitions in W.P.Nos.11145 of 2018, etc. batch, has held that if there is any irregularity or violation of any procedures during the course of election and a complaint has been made before the State Election Commission before conducting election, the State Election Commission shall consider the complaint and pass orders.

9. In the said circumstances, without going into the merits of the case, this Court directs the first respondent to consider the petitioners' complaint dated 08.10.2018 and pass suitable orders on merits, after giving opportunity to the petitioners and also consider their objections, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that any subsequent election to be conducted to the office bearers of the fourth respondent Society is subject to the orders passed by the first respondent.

10. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Co-Operative Societies

Election Commissioner,

Tamil Nadu Co-operative Societies Election Commission,

No.273, Kamadhenu Supermarket,

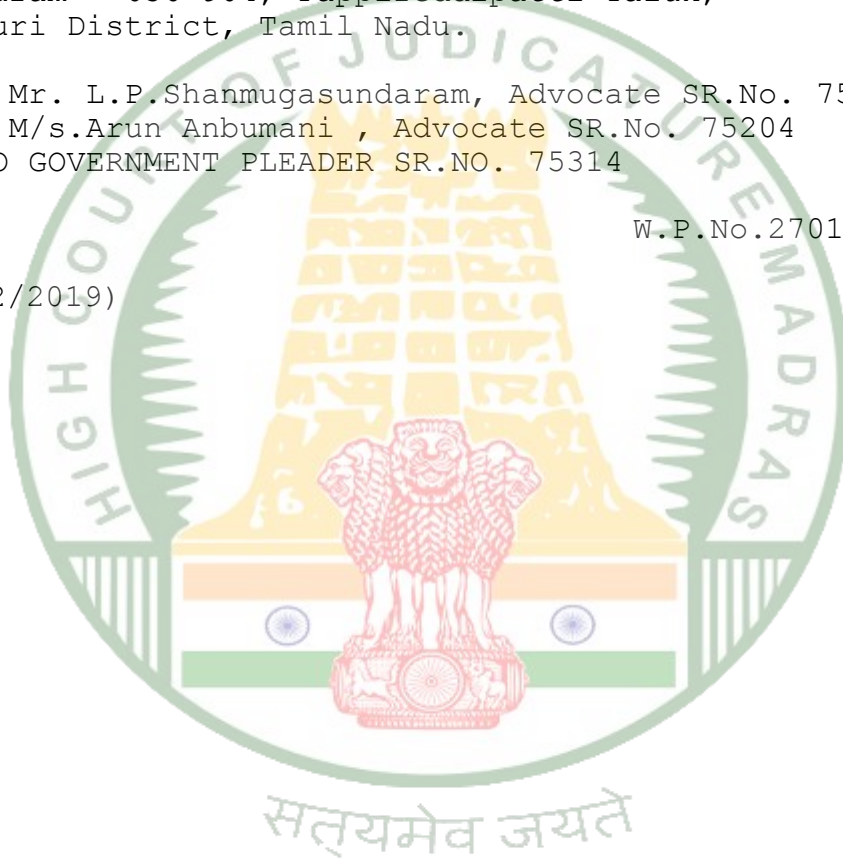
I floor, Anna Salai, Chennai - 600 018.

2. The District Revenue Officer /
Managing Director (in-charge)
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The District Election Officer,
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4. The Election Officer,
S-8, Subramina Siva Co-operative Sugar Mill Limited,
Gopalapuram - 636 904, Pappireddipatti Taluk,
Dharmapuri District, Tamil Nadu.

+1cc to Mr. L.P.Shanmugasundaram, Advocate SR.No. 75089
+1cc to M/s.Arun Anbumani , Advocate SR.No. 75204
+1 CC TO GOVERNMENT PLEADER SR.NO. 75314

W.P.No.27010 of 2018

A.SK(07/02/2019)



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