

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.27012 of 2018
and WMP.Nos.31400, 31401 and 32860 of 2018

P.V.Sekar

..

Petitioner

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,
KK 151, Harur Agricultural Producers Co-operative
Marketing Society Limited, Harur Town and 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, quash the same and direct the respondents to properly and correctly redraw the eligible list of members / voters by deleting the names of all the deceased members, accept the nomination of the petitioner which has been illegally rejected and include his name in the list of eligible candidates as well as contesting candidate and thereafter conduct the election of Members / Directors to the Board of the KK 151, Harur Agricultural Producers Co-operative Marketing Society Limited, Harur Town and 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 petitioner : M/s.Arun Anbumani
For respondents : Mr.M.S.Palanisamy, for R1
Mr.Bala Ramesh, for R2
Mr.L.P.Shanmugasundaram, Spl.G.P., for R3 & R4

ORDER

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

2. The grievance of the petitioner is that eventhough he has filed nomination and he is also eligible to contest in the election, his name was not found place in the final eligible list published by the fourth respondent. Hence, he filed a complaint before the first respondent on 08.10.2018 even before the election to be conducted. Thereafter, the petitioner filed the present Writ Petition.

3. Earlier this Court ordered notice to the respondents. Today, the fourth respondent filed a counter affidavit stating that the petitioner's nomination has been rejected on the ground that the signature of the candidate is not found to be genuine, by invoking Rule 52 (8) (b) (iii) of the Tamil Nadu Co-operative Societies Rules.

4. The learned counsel for the petitioner submitted that the petitioner himself filed the nomination and he alone signed the nomination papers. The fourth respondent compared the signature found in the Society, while he was admitted as member and stated that his signature is not genuine. Apart from that, the fourth respondent is not competent authority to compare the signature and he cannot reject the nomination on the ground that the signature is not genuine. The learned counsel for the petitioner also submitted that the petitioner has already filed a complaint before the first respondent even before the completion of the election on 08.10.2018, and the same is also now pending with the first respondent.

5. The learned counsel appearing for the respondents relied upon the judgment of the Division Bench of this Court in W.A.No.902 of 2013, dated 30.04.2013, wherein, the Division Bench has held that the only remedy available is to file a petition under Section 90 of the Tamil Nadu Co-operative Societies Act.

6. I have considered the rival submissions and perused the materials available on record carefully.

7. Admittedly before election being conducted and the results are declared, the petitioner approached the first respondent and filed a complaint regarding the irregularities in conducting the election and also for rejecting the nomination papers. But, no action has been taken so far. Hence, the present writ petition has been filed.

8. As per the order passed by the Division Bench of this Court, before conducting election and the results being declared, complaint has to be filed before the first respondent and the first respondent is entitled to consider the complaint and pass suitable orders. Now, in the instant case, already complaint has been lodged before the first respondent before election being conducted. So far as the judgment relied upon by the learned counsel for the respondent is concerned, in that case, the election was already over and the results were declared. Hence, the Division Bench directed the parties to approach the concerned authorities by filing petition under Section 90 of the Tamil Nadu Co-operative Societies Act and above judgment is not applicable to the facts of the present case.

9. In the said circumstances, without going into the merits of the case, this Court directs the first respondent to consider the petitioner's complaint dated 08.10.2018 and pass suitable orders on merits and in accordance with law, after giving an opportunity to the petitioner and also consider his 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.

pvs

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

To

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4. The Election Officer,
KK 151, Harur Agricultural Producers Co-operative
Marketing Society Limited, Harur Town and Taluk,
Dharmapuri District, Tamil Nadu.
+1cc to M/s.Arun Anbumani, Advocate SR.No. 75202
+1 CC TO GOVERNMENT PLEADER SR.NO. 15314

W.P.No.27012 of 2018

A SK (07/02/2019)