

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.10.2018

CORAM
THE HON'BLE Mr. JUSTICE V.BHARATHIDASAN

W.P.Nos.27212 and 27219 of 2018
and
W.M.P.Nos.31641, 31651, 32866 and 32868 of 2018

1. A.Sekar .. Petitioner in W.P.No.27212 of 2018
2. P.Sampath .. Petitioner in W.P.No.27219 of 2018

Vs.

1. The Election Commissioner,
Tamil Nadu State Co-operative Societies,
Election Commission,
273, Kamadenu Super Market Complex,
Teynampet, Chennai-18.

2. The District Election Officer (Co-operative Societies),
Erode District.

3. The Election Officer,
K 885 Chennimalai Weavers Co-operative Society Ltd.,
(Chentax), Perundurai Taluk,
Erode District. .. Respondents in both W.Ps.

Common Prayer : Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the list of candidates published on 09.10.2018 by the 3rd Respondent in respect of the election to the 3rd respondent society as null and void and consequently direct the 3rd respondent to include the nominations received on as per the acknowledgement dated 06.10.2018 in the valid candidates' list and conduct the election for the Board of Directors of the 3rd Respondent Society without rejection of any nominations.

For Petitioner : Mr.S.Lakshmanasamy

For Respondents : Mr.M.S.Palaniswamy [For R1]
Mr.L.P.Shanmugasundaram
Special Govt.Pleader [For R2 & R3]

COMMON ORDER

These writ petitions are filed by the petitioners challenging the list of candidates published on 09.10.2018 by the 3rd Respondent in respect of the election to the 3rd

respondent society as null and void and consequently, direct the 3rd respondent to include the nomination received on as per the acknowledgement dated 06.10.2018 in the valid candidates' list and conduct the election for the Board of Directors to the 3rd Respondent Society without rejection of any nomination.

2. According to the petitioners, they have contested the post of Board of Directors and they have also filed their nominations. Without passing any orders, the 3rd respondent herein has declared the election to the Society as 7 candidates have duly elected. In this circumstance, the petitioners have filed the writ petitions challenging the list of elected candidates published on 09.10.2018 by the 3rd respondent.

3. The 3rd respondent has filed counter stating that after scrutinising the nomination filed by the petitioners, their nominations are found invalid. Thereafter, on 09.10.2018, the petitioners himself has withdrawn their nomination and in the said circumstances, now it is open to them to challenge the election.

4. The learned counsel for the petitioners submitted that they never withdrawn their nominations. They were ready and willing to contest the election but their signatures have been forged by the Election Officer, as if the petitioners have withdrawn their nominations.

5. Considered the rival submissions made by both sides. It is the case of the respondents that the petitioners have withdrawn their nominations and the same is disputed by the petitioners, this disputed question cannot be decided in the writ petition. Apart from that, the results also were declared, hence the only remedy now available to the petitioners are to file an election petition under Section 90 of the Tamil Nadu Co-operative Societies Act, and therefore, the writ petitions are dismissed. The petitioners are given liberty to file election petition to challenge the election conducted by the 3rd respondent in the manner known to law, within a period of two weeks from the date of receipt of a copy of this order and on filing such petition, the election authorities are directed to consider the election petition filed by the petitioners in accordance with law within a period of three months thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssn/tsg

To

1.The Election Commissioner,
Tamil Nadu State Co-operative Societies,
Election Commission,
273, Kamadenu Super Market Complex,
Teynampet, Chennai-18.

2.The District Election Officer (Co-operative Societies),
Erode District.

3.The Election Officer,
K 885 Chennimalai Weavers Co-operative Society Ltd.,
(Chentax), Perundurai Taluk,
Erode District.

+2ccs to Mr.L.P.Shanmugasundaram, Advocate,S.R.No.75090 and 75091
+1cc to the Government Pleader, S.R.No.75318

W.P.Nos.27212 and 27219 of 2018
and
W.M.P.Nos.31641, 31651, 32866
and
32868 of 2018

MP (CO)

rrs 04/02/2019



WEB COPY