

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.27980 of 2018
and W.M.P.Nos.32549 and 32551 of 2018

G.Jayapal

.. Petitioner

Vs.

1.The Commissioner,
The Tamil Nadu State Co-operative
Societies Election Commission,
No.273, I Floor, Kamadenu Building,
Teynampet, Chennai - 600 018.

2.The Election Officer,
S-527, Kelamangalam Agricultural Producers
Co-operative Marketing Socceity Ltd.,
Kelamangalam Post,
Denkanikottai Tk
Krishnagiri District - 635 113.

3.S-527, Kelamangalam Agricultural Producers
Co-operative Marketing Society Ltd,
Rep by its Secretary
Kelamangalam Post,
Denkanikottai Tk
Krishnagiri District - 635 113

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records, relating to the declaration of result dated 09.10.2018, on the file of the Second respondent herein, and quash the same as null and void, and direct the first respondent to enquire the irregularities in the election to the third respondent society, within a timeframe as may be fixed by this Hon'ble Court.

For Petitioner : Mr.P.Raja

For Respondents : Mr.M.S.Palaniswamy
Standing counsel for R1

Mr.L.P.Shanmugasundaram
Special Government Pleader for RR2 to 3

O R D E R

The writ petition is filed challenging the election conducted to the post of Board of Directors to the third respondent Co-operative society.

2. The grievance of the petitioner is that he has filed his nomination to the election for the Board of Directors but, without passing any orders on the nomination, the third respondent passed an impugned declaration declaring the 11 candidates were duly elected as Board of Directors.

3. The learned Special Government Pleader appearing for the 2nd respondent submitted that the petitioner has filed the nomination, and the same has been rejected on valid reasons. Subsequently, the election was also conducted, and the results were also declared, and in such circumstances, the petitioner cannot challenge the election by way of writ petition and the only remedy available to the petitioner is to file a petition challenging the election under Section 90 of the Tamil Nadu Co-operative Societies Act.

4. The learned counsel for the petitioner submitted that nomination has been rejected for very trivial reasons in title in violation of Section 52(8)(C) of the Tamil Nadu Co-operative Societies Rules, 1988.

5. I have considered rival submissions.

6. On considering the fact that the petitioner's nomination has been rejected, and whether the order rejecting the nomination is valid or not, is a matter which has to be decided in a proper proceedings, and this Court cannot decide the above issue in a writ petition under Article 226 of the Constitution of India. Apart from that now the election was over and results were also declared, in the above circumstances, the only remedy available to the petitioner is to file an election petition challenging the election.

7. In the result, writ petition is dismissed. However, the petitioner is at liberty to challenge the election, if he is so advised, within a period of two weeks from the

date of receipt of a copy of this order. On receipt of any such election petition filed by the petitioner, the Election Authorities are directed to consider the same and pass orders in accordance with law within a period of three months thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

ssn/tsg

To

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Co-operative Marketing Society Ltd,
Rep by its Secretary
Kelamangalam Post,
Denkanikottai Tk
Krishnagiri District - 635 113

+1cc to Mr.P.Raja , Advocate SR.No. 75022

+1 CC TO GOVERNMENT PLEADER SR.NO. 75321

W.P No.27980 of 2018

and W.M.P.Nos.32549 and 32551 of 2018

A.SK (28/01/2019)