

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HON'BLE Mr. JUSTICE V.BHARATHIDASAN

W.P.Nos.27998 and 27999 of 2018

and

W.M.P.Nos.32568, 32569, 32570 and 32572 of 2018

1. S.Tamizhmani .. Petitioner in W.P.No.27998 of 2018

2. S.A.Senthilnathan .. Petitioner in W.P.No.27999 of 2018

Vs.

1.Election Commissioner,
Tamil Nadu State Co-operative Societies
273, Kamadenu Supermarket, I Floor,
Anna Salai, Chennai-18.

2. District Election Officer,
Vellore District,
Vellore.

3. Election Officer,
Vellore Co-operative Sugar Mills Ltd., DS-2,
Ammudi
Vellore District,
Vellore.

4. District Collector,
Vellore District.

5. Managing Director,
Vellore Co-operative Sugar Mills Limited, DS-2,
Vellore District,
Vellore. .. Respondents in both W.Ps.

Common Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in relation to the declaration of results of Vellore Co-operative Sugar Mills Ltd dated 09.10.2018 and quash the same and further direct the 3rd respondent to conduct elections strictly as per the Tamil Nadu Co-operative Societies Act, 1983 and Co-operative Societies Election Manual, 2018.

(Both WPs)

For Petitioners : Mr.S.Silambuselvan

For Respondents : Mr.M.S.Palaniswamy [For R1]

Mr.L.P.Shanmugasundaram

Special Govt.Pleader [For R2,R4 & R6]

Mr.Bala Ramesh [For R5]

COMMON ORDER

This writ petition is filed by the petitioner 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 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.

2. According to the petitioners in both the writ petitions, they have contested for the post of Board of Directors, and they have also filed their nomination. Without passing any orders on their notification, the 3rd respondent herein has declared the result of the election to the Society, and declared 17 candidates have duly elected. In this circumstance, the petitioners have filed the present 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 nominations filed by the petitioners, on 09.10.2018, the petitioners themselves have withdrawn their nominations, 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 had never withdrawn their nominations, and they are ready and willing to contest the election, but their signatures are forged by the 3rd respondent - Election Officer, as if the petitioners have withdrawn their nominations.

5. I have considered the rival submissions made by both sides. It is the case of the respondents that, the petitioners have withdrawn their nominations, but it is disputed by the petitioners. Admittedly, now election is over and the result was also declared. In this circumstance, this Court cannot decide the disputed issues in writ proceedings under Article 226 of the

Constitution of India, as there is an effective alternative remedy available to the petitioners to file a election petition under Section 90 of the Tamil Nadu Co-operative Societies Act. Accordingly, both the writ petitions are dismissed. However, the petitioners are given liberty to file election petitions 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 petitions by the petitioners, the authorities are directed to consider the election petitions filed by the petitioners in accordance with law dispose the same within a period of three months thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssn/tsg

To

1.Election Commissioner,
Tamil Nadu State Co-operative Societies
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Anna Salai,Chennai-18.

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Vellore District,Vellore.

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Vellore Co-operative Sugar Mills Ltd., DS-2,Ammudi
Vellore District, Vellore.

4. District Collector,
Vellore District.

5. Managing Director,
Vellore Co-operative Sugar Mills Limited, DS-2,
Vellore District, Vellore.

+1 cc to The Government Pleader, Sr.No.75322,75323

+2 cc to Mr.S.Silambuselvan, Advocate Sr.No.75234,75235

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SJ(CO)
CSL/17.12.2018