

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.11.2018

CORAM:
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.27379 of 2018
and WMP.No.31880 of 2018

P.Kailasam

... Petitioner

Versus

1.Tamil Nadu State Co-operative Societies,
Election Commissioner,
No.273, Kamadhenu Supermarket, I Floor,
Anna Salai,
Chennai - 600 018.

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

3.Election Officer,
NS1383, Salem Co-operative Sugar Mills,
Co-operative Society,
Mohanur,
Namakkal District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring the entire process of current election to the 3rd respondent society is illegal, null and void; and consequentially direct the respondents to conduct fresh election to the 3rd respondent society by accepting all the nominations in accordance with Tamil Nadu Co-operative Societies Act, 1983, Tamil Nadu Co-operative Societies Rules, 1988 and instructions in the Co-operative Election Manual and conduct the election in a free and fair manner within a reasonable time to the fixed by this Court.

For Petitioner :Mr.R.Neelakandan

For Respondents: Mr.M.S.Palanisamy, Standing Counsel, for R1

Mr.L.P.Shanmugasundara, Spl.G.P. for R2

Mr.Bala Ramesh, for R3

ORDER

This Writ Petition has been filed to conduct fresh election to the third respondent Society.

2. The grievance of the petitioner is that, the petitioner contested for the post of Board of Directors to the third respondent Society, and the election to the Society was not conducted in a proper manner, and lot of irregularities were committed in the election. Hence, the petitioner filed the present Writ Petition to set aside the election and to conduct fresh election.

3. The learned counsel for the third respondent has filed a counter affidavit stating that the election to the third respondent Society was conducted in a fair manner, in which, the petitioner was contested and secured only 468 votes. Hence, if at all the petitioner has any grievance, he can very well file a petition under Section 90 of the Tamil Nadu Co-operatives Societies Act.

4. I have heard the rival submissions and perused the materials available on record.

5. It is not in dispute that the petitioner contested the election and also secured some votes, but he was not elected. If the petitioner has any grievance in conducting the election, it is always open to the petitioner to challenge the election by filing a petition under Section 90 of the Tamil Nadu Co-Operative Societies Act. It is settled law that the election to the co-operative societies cannot be challenged by filing writ petition. A Division Bench of this Court in W.P.(MD).Nos.17730 of 2018, etc. batch, dated 03.08.2018, has categorically held that the only remedy available to the petitioner is to challenge the election by filing a petition under Section 90 of the Co-operative Societies Act.

6. In the above circumstances, the writ petition is dismissed. However, liberty is granted to the petitioner to file appropriate petition under Section 90 of the Tamil Nadu Co-operative Societies Act raising all the grounds available to him. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

pvs

To

1.Tamil Nadu State Co-operative Societies,
Election Commissioner,
No.273, Kamadhenu Supermarket, I Floor,
Anna Salai, Chennai - 600 018.

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

+lcc to Mr.R.Neelakandan, Advocate, S.R.No.75717

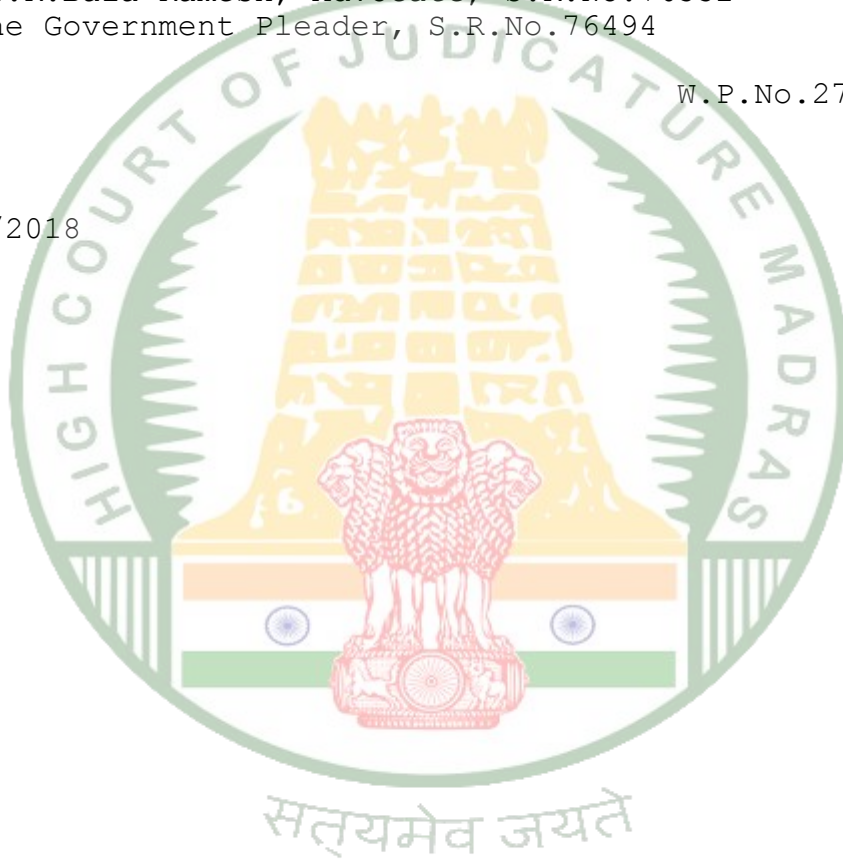
+lcc to Mr.R.Bala Ramesh, Advocate, S.R.No.76332

+lcc to the Government Pleader, S.R.No.76494

W.P.No.27379 of 2018

PA(CO)

rrs 29/11/2018



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