

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.11.2018
CORAM
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN
W.P.No.27395 of 2018
and
W.M.P.Nos.31902, 31906 and 31907 of 2018

1.V.Mathaian
2. C.Mariyappan

... Petitioners

Vs

1. The Tamil Nadu State Cooperative Election Commission,
Rep. By its Commissioner,
Kamadenu Super Market I Floor,
No.273, Anna Salai,
Chennai - 600 018.
2. R.Keerthi Priyadarshini,
District Revenue Officer/Managing Director,
(Additional in Charge),
District Election Officer,
Dharmapuri District.
3. The Election Officer,
Executive Committee Members Election - 2018,
KK.347, Dharmapuri District
Co-operative Sugar Mills Ltd,
Thimmanahalli, Palakkodu,
Dharmapuri District.
4. The Special Officer,
KK.347, Dharmapuri District
Co-operative Sugar Mills Ltd.,
Thimmanahalli, Palakkodu,
Dharmapuri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned Directors list published by the 3rd respondent dated 09.10.2018 and quash the same and consequently direct the 3rd respondent to conduct the reverification of all candidates including the petitioners with videography by including the petitioners name as eligible candidates and to conduct the election for the Board of Directors of No.KK347, Dharmapuri District Co-operative Sugar Mills Ltd., Thimmanahalli Dharmapuri in free and fair manner.

For Petitioners : Mr.M.Rajendiran

For Respondents : Mr.Palaniswamy, for R1.

: Mr.L.P.Shanmugasundaram,
Special Government Pleader,
For R2.

: Mr.R.Bala Ramesh,
Standing Counsel,
For R3 & R4.

O R D E R

This writ petition has been filed challenging the election conducted to the Board of Directors of the fourth respondent society.

2. The grievance of the petitioners is that they have filed their nominations to the post of Board of Directors to the fourth respondent society. But, without passing any orders on the nominations filed by the petitioners, the second respondent published valid candidates list of 43 persons. Thereafter, a final list of elected candidates has been published on 09.10.2018.

3. The learned counsel appearing for the petitioners submitted that even though the petitioners have filed their nominations, without passing any orders on the nominations, now the Election Officer has arbitrarily declared the results.

4. Mr.L.P.Shanmugasundaram, learned Special Government Pleader, appearing for the second respondent, on instructions, submitted that now the petitioners nominations have been rejected by valid reasons and the copy of the order rejecting the petitioner's nomination will be served on the petitioner. Now the election result being declared and the only remedy available to the petitioner is to challenge the election by way of filing a petition under Section 90 of the Co-Operative Societies Act and the petitioner cannot maintain the writ petition.

5. I have heard the learned counsel appearing for the petitioner and the Standing counsel appearing for the first respondent and the Special Government Pleader appearing for the respondents 3 and 4.

6. Admittedly, now the election was over and 17 directors were declared as elected as early as on 09.10.2018. Since the election to the office bearers were declared, the only remedy available to the petitioner is

to file a petition under Section 90 of the Co-operative Societies Act. It is settled law that the election to the co-operative societies cannot be challenged by filing writ petition. This Court categorically held that the only remedy available to the petitioners is to challenge the election by filing petition under Section 90 of the Co-Operative Societies Act. Considering the circumstances, as already the petitioners' nomination's have been rejected with reason, if the petitioners have any grievance regarding the rejection, it is always open to the petitioners to file a petition under Section 90 of the Co-Operative Societies Act and cannot maintain the Writ Petition.

7. In the result, the present writ petition is dismissed with liberty to the petitioner to file appropriate application under Section 90 of the Tamil Nadu Co-operative societies Act. No Costs. Consequently, connected miscellaneous petitions are closed. The third respondent Election Officer is directed to furnish the copy of the order rejecting the petitioners nomination within a period of one week from the date of receipt of a copy of this order enabling the petitioner to file appropriate petition.

Sd/-/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Tamil Nadu State Cooperative Election Commission,
Rep. By its Commissioner,
Kamadenu Super Market I Floor,
No.273, Anna Salai, Chennai. 18.
Chennai - 600 018.

2. The Election Officer,
Executive Committee Members Election - 2018,
KK.347, Dharmapuri District
Co-operative Sugar Mills Ltd,
Thimmanahalli, Palakkodu,
Dharmapuri District.

+1cc to Mr. M.Rajendiran, Advocate SR.No.77730
+1cc to Mr.R.Bala Ramesh,, Advocate SR.No. 77787
+1 CC TO GOVERNMENT PLEADER SR.NO. 78011

W.P.No.27395 of 2018

and

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A. SK (29/01/2019)