

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HON'BLE Mr. JUSTICE V.BHARATHIDASAN

W.P.No.27486 of 2018

and

W.M.P.Nos.31993, 31995 and 31996 of 2018

P.Elangovan

.. Petitioner

Vs.

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

2. The District Election Officer,
Deputy Registrar, (Co-operative Societies),
Thiruvannamalai District.

3. The Election Officer,
The D.S.No.10, Cheyyar Co-operative Sugar Mills Ltd.,
Anakkavur-Thenthandalam,
Cheyyar,
Vandavasi Taluk,
Thiruvannamalai District-604 401.

.. Respondents

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 relating to the impugned declaration published by the 3rd respondent election officer affixed in the notice board of the 3rd respondent society on 09.10.2018 and quash the same as illegal and consequently direct the 3rd respondent to conduct re-election with the manner of free and fair an accordance with Tamil Nadu Co-operative Societies Act, 1983.

For Petitioner : Mr.A.V.Raja

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

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 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 petitioner, he has contested the post of Board of Directors and he has also filed his nomination. Without passing any orders, the 3rd respondent herein has declared the election to the Society as 17 persons have duly been elected. In this circumstance, the petitioner has filed the writ petition 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 petitioner, his nomination is found invalid. Thereafter, on 09.10.2018, the petitioner himself has withdrawn his nomination and in the said circumstances, now it is open to him to challenge the election.

4. The learned counsel for the petitioner submitted that he never withdrawn his nomination. He was ready and willing to contest the election but his signature has been forged by the Election Officer as the petitioner has withdrawn his nomination.

5. Considered the rival submissions made by both sides. It is the case of the respondents that the petitioner has withdrawn his nomination and the same is disputed by the petitioner, 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 petitioner is to file an election petition under Section 90 of the Tamil Nadu Co-operative Societies Act, and therefore, the writ petition is dismissed. The petitioner is 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 petitioner in accordance with law within a period of three months thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

ssn/tsg

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

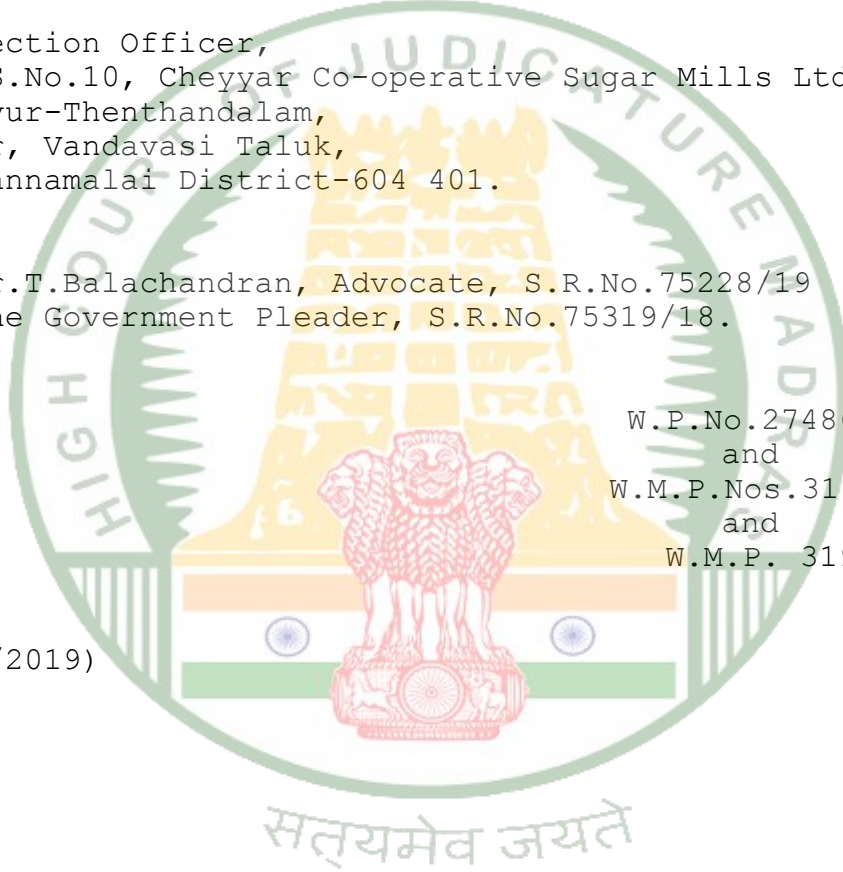
1. The Election Commissioner,
Tamil Nadu State Co-operative Societies,
Election Commission,
273, Kamadenu Super Market Complex,
Teynampet, Chennai-18.
2. The District Election Officer/Deputy Registrar
(Co-operative Societies),
Thiruvannamalai.
3. The Election Officer,
The D.S.No.10, Cheyyar Co-operative Sugar Mills Ltd.,
Anakkavur-Thenthandalam,
Cheyyar, Vandavasi Taluk,
Thiruvannamalai District-604 401.

+1cc to Mr.T.Balachandran, Advocate, S.R.No.75228/19

+1cc to the Government Pleader, S.R.No.75319/18.

W.P.No.27486 of 2018
and
W.M.P.Nos.31993, 31995
and
W.M.P. 31996 of 2018

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