

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.Nos.27510 and 27511 of 2018
and W.M.P.Nos.32021 and 32023 of 2018

1.M.P.Alex

.. Petitioner
in W.P.No.27510 of 2018

2.K.S.Sayed Hassain

.. Petitioner
in W.P.No.27511 of 2018

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 Society Ltd.,
Kelamangalam Post,
Denkanikottai Tk
Krishnagiri District - 635 113.

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

... Respondents in both W.Ps.

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Declaration declaring the declaration of result dated 09.10.2018, on the file of the Second respondent herein, as illegal, malafide, null and void, and consequently 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 Petitioners : Mr.P.Raja

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

Mr.L.P.Shanmugasundaram
Special Government Pleader for R2 and R3

C O M M O N O R D E R

The writ petitions are filed by the petitioners challenging the election conducted to the post of Board of Directors to the third respondent Co-operative society.

2. The grievance of the petitioners are that they have filed their nominations to the election for the Board of Directors but, without passing any orders on the nominations, the second respondent herein has declared the election to the Society and 11 candidates were duly elected as Board of Directors.

3. The 2nd respondent has filed a common counter affidavit stating that the petitioners have filed the nominations, 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 petitioners cannot challenge the election by way of writ petition and the only remedy available to the petitioners 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 petitioners submitted that nominations have been rejected for very trivial reasons in title in violation of Section 52(8)(C) of the Tamil Nadu Co-operative Societies Rules, 1988. सत्यमेव जयते

5. I have considered rival submission.

6. On considering the fact that the petitioners' 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 petitioners is to file election petitions challenging the election.

7. In the result, both the writ petitions are dismissed. However, the petitioners are at liberty to challenge the election, if they are 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 petitions filed by the petitioners, 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

//True Copy//

Sub Assistant Registrar

ssn/tsg

To

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Rept by its Secretary
Kelamangalam Post,
Denkanikottai Tk
Krishnagiri District - 635 113.

+1cc to Mr.P.Raja, Advocate, S.R.No.75020

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.76050

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AK(CO)
GSP(11/01/2019)