

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13..11..2018

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.29844 of 2018
and

W.M.P.Nos.34844, 34847 and 34852 of 2018

- 1.R.Durai
- 2.S.Elangovan
- 3.S.Mayakannan
- 4.K.Subramanian

... Petitioners

-Versus-

- 1.Govt of Tamil Nadu,
Rep. by its Secretary,
Co-operative Food and Consumer Protection
Department, Fort Saint George, Chennai.
- 2.Tamil Nadu Co-operative Societies,
Election Commission,
Rep. by Tamil Nadu Co-operation Societies Election
Commissioner,
Kamadenu Co-op Super Market Building,
No.273 Scheme Road, Subbarayan Nagar,
Teynampet, Chennai 600018.
- 3.Registrar of Co-operative Societies,
No.170 N.V.Natarajan Maaligai,
E.V.R.High Road,
Kilpauk, Chennai 600010.
- 4.The Deputy Registrar of Co-operative Societies
(credit) District,
Election Officer,
Kuralagam, Chennai -108.
- 5.Transport Corporation Employees Co-operative Thrift
and Credit Society Ltd., X-367,
Rep. by its Secretary,
Rathna Nagar,
Teynampet, Chennai -18

6.The Returning Officer

for Transport Corporation Employees Co-
operation Thrift and Credit Society Ltd., X-367,
Rathna Nagar,
Teynampet Chennai -18.

... Respondents

Prayer in WP.No.29844 of 2018:-

Petition filed under Article 226 of the Constitution of India praying to issue an appropriate writs, orders and directions and in particular issue a Writ in the nature of Certiorarified mandamus, after calling for the records pertaining to the notification dated 02.11.2018 issued by the 4th Respondent in Se.Ma.Tho.E/Varakalai/2018, notifying the election schedule for holding election to the 5th Respondent Society, quash the same in so far as issuing the notification from the initial stage and in so far as not confining the election schedule from the date of polling/voting and in so far as the schedule of dates earlier to the date fixed for polling/voting in the impugned notification and for a consequential direction to hold election to the 5th respondent society from the stage of polling/voting which is schedule to be held on 22.11.2018 as per the impugned notification or by issuing a fresh notification, in a fair and free manner and with sufficient police protection, Award costs.

For Petitioners : Mr.R.Krishnaswamy

For Respondents : Mr.M.S.Palaniswamy for R2

Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader for R3 to
R6

ORDER

Challenging the election notification dated 02.11.2018 issued by the 4th respondent in Se.Ma.Tho.E/Varakalai/2018 for conducting election to the Board of Directors to the 5th respondent society, the petitioners are before this court with the instant writ petition.

2. The case of the petitioner is that originally the election to the Board of Directors of the 5h respondent society was scheduled to be held in the month of April. But, as there were certain irregularities alleged in the process of election, the election for the 5th respondent society was cancelled by the 2nd respondent. Ultimately, the 4th respondent had issued a fresh notification re-scheduling the election and as per the re-

schedule, polling was scheduled to be held on 16.08.2018. But, the election was postponed as there was a likelihood of law and order problem. Challenging the order of the 1st respondent postponing the election, the petitioners filed a writ petition in W.P.No.21350 of 2018 wherein this court, by order dated 03.05.2018, directed the Election Commissioner to issue a fresh schedule of election within a period of two weeks from the date of receipt of copy of the order and if there was any law and order problem, the Election Officer was directed to get adequate protection from the police concerned. Pursuant to the order of this court, the impugned notification has been issued by the 1st respondent wherein he directed the election to be commenced from the stage of issuance of voters' list. It is this notification which is under challenge in the instant writ petition. The grievance of the petitioner is that as per the order of this court, the election is to be resumed from the stage of polling and not from the stage of issuance voters' list.

3. The learned counsel for the petitioner would submit that after the earlier round of litigation, the election had been rescheduled after the process of scrutiny of nominations was over and the polling was scheduled to be held on 16.08.2018, but, as there had been likelihood of law and order problem, the polling was postponed. Considering the above circumstances, this court directed the respondents to conduct election by providing necessary police protection and the Election Commission was also permitted to issue fresh schedule for conducting poll. The 2nd respondent, instead of commencing the election from the stage of polling, in and by his proceedings impugned in this writ petition, directed fresh election to be conducted for the the respondent society.

4. The learned standing counsel for the 2nd respondent, on instructions, submitted that the 2nd respondent had misconstrued the order of this court. According him, since the election was stopped at the stage of polling, this court may direct the 2nd respondent to resume the election from the stage of polling by issuing fresh election schedule for conducting poll. The said statement is recorded.

5. In the light of the above submission made by the learned standing counsel for the 2nd respondent, without going into the merits of the case, this court directs the 2nd respondent to resume the election in respect of the 5th respondent society from the stage of polling and issue an appropriate fresh notification fixing a date for conducting poll within a period of one week from the date of receipt of a copy of this order.

6. In the result, this writ petition is disposed of with the above directions. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, Co-operative Food and Consumer Protection Department, Fort Saint George, Chennai.
2. The Secretary, Co-operative Food and Consumer Protection Department, Fort St. George, Chennai -9.
3. The Tamil Nadu Co-operation Societies Election Commissioner, Tamil Nadu Co-operative Societies, Election Commission, Kamadenu Co-op Super Market Building, No.273, Scheme Road, Subbarayan Nagar, Teynampet, Chennai 600018.
4. The Registrar of Co-operative Societies, No.170 N.V.Natarajan Maaligai, E.V.R.High Road, Kilpauk, Chennai 600010.
5. The Deputy Registrar of Co-operative Societies (Credit) District, Election Officer, Kuralagam, Chennai -108.
6. The Secretary, Transport Corporation Employees Co-operative Thrift and Credit Society Ltd., X-367, Rathna Nagar, Teynampet, Chennai -18.
7. The Returning Officer for Transport Corporation Employees Co-operation Thrift and Credit Society Ltd., X-367, Rathna Nagar, Teynampet Chennai -18

+1cc to Mr.L.P.Shanmugasundaram,, Advocate, S.R.No.77530
+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.77527
+1cc to the Government Pleader, S.R.No.78012

W.P.No.29844 of 2018

CS/20/11/2018