

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.12.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.33267 of 2018

and

W.M.P.No. 38599 & 38600 of 2018

K.Dhayanadhi

... Petitioner

Vs.

- 1.The Election Commissioner,
State Co-operative Societies Election Commission,
No.273, Kamadhenu Supermarket,
1st floor, Anna Salai, Teynampet,
Chennai - 600 018.
2. The Registrar,
Tamil Nadu State Co-operative Societies,
Chetpet, Chennai - 600 010.
3. The Joint Registrar,
Tamil Nadu State Co-operative Societies,
Cuddalore Zone,
Cuddalore District.
4. The Election Officer,
C.L. Special - 8,
Panruti Agricultural Producers
Co-operative Marketing Society,
1 A, Vizhumangalam Road,
Panruti, Cuddalore District.
5. The Deputy Registrar,
Office of Co-operative Society,
Thandapani Nagar,
Cuddalore District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to call for the records relating to the order Na.Ka.No.8655/2018/Co-operative.election.2, dated 04.12.2018 issued by the first respondent and quash the same as being illegal, arbitrary and

unconstitutional and consequently direct the respondents 1 and 4 to cancel the election to be held on 14.12.2018 to the post of Directors in the fourth respondent Co-operative society and to conduct a free and fair election only after rectifying all the irregularities in Voters List published by the fourth respondent in accordance with law.

For Petitioner : Mr. S.Haja Mohideen Gisthi

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

: Mr. L.P.Shanmugasundaram
Spl.Gov. Pleader for R2 to R5

O R D E R

This writ petition has been filed challenging the order passed by the first respondent/Election Commission to resume the election to the fourth respondent/Panruti Agricultural Producers Co-operative Marketing Society.

2. The grievance of the petitioner is that in the voters list prepared for the election by the fourth respondent, the name of so many dead persons and the persons, who are not eligible to cast their votes to the Co-operative Society, were included. There are lots of discrepancies in the electoral voters list and the election could not be conducted with the above defective voters list. Hence, the present writ petition has been filed challenging the order passed by the first respondent.

3. The learned counsel appearing for the respondents 2 to 5 submitted that earlier, election of the said society commenced in the month of September 2018, and a draft voters list was published on 24.09.2018, and objection was also called for, but the petitioner did not raise any objection for the list. Thereafter, final list was also published, nominations were also received. The election to the said Society was also conducted on 11.10.2018, but the same was stopped due to law and order problem. After enquiry, the impugned order has been passed by the first respondent to resume the election from the stage it was stopped. If at all the petitioner has any grievance regarding the voters list, he should have raised objection at the time of publication of the draft voters list and it is not open to him to challenge the impugned order on the ground that the voters list is defective.

4. I have considered the rival submissions made by both parties and perused the materials available on record.

5. Admittedly, the draft voters list was published on 24.09.2018 and at that time, the petitioner did not raise any objection. Thereafter, the election proceedings have commenced and election was also conducted on 11.10.2018 and the election was stopped due to the law and order problem. Now, by the impugned order, the first respondent directed to resume the election from the stage it was stopped. The petitioner having kept quiet right from the beginning, , it is not open to him to challenge the order passed by the first respondent to resume the election on the ground that voters list is defective. If at all there is any defect in the voters list, the only remedy available to the petitioner at this stage is to challenge the same by filing appropriate petition in respect of conduct of election to the society before the authority concerned and now, he cannot maintain the present writ petition.

6. Accordingly, this writ petition is dismissed. However, as the election is scheduled to be held now, the fourth respondent is directed to obtain necessary police protection for conducting the election, and photograph the entire election process at the cost of the petitioner. At the time of conducting the election, Election Officer is directed to verify the identity of the voters with the voter identity card or with any other relevant proof showing the identity of the voters before casting their votes.. No costs. Consequently, connected miscellaneous petitions are closed.

mrp

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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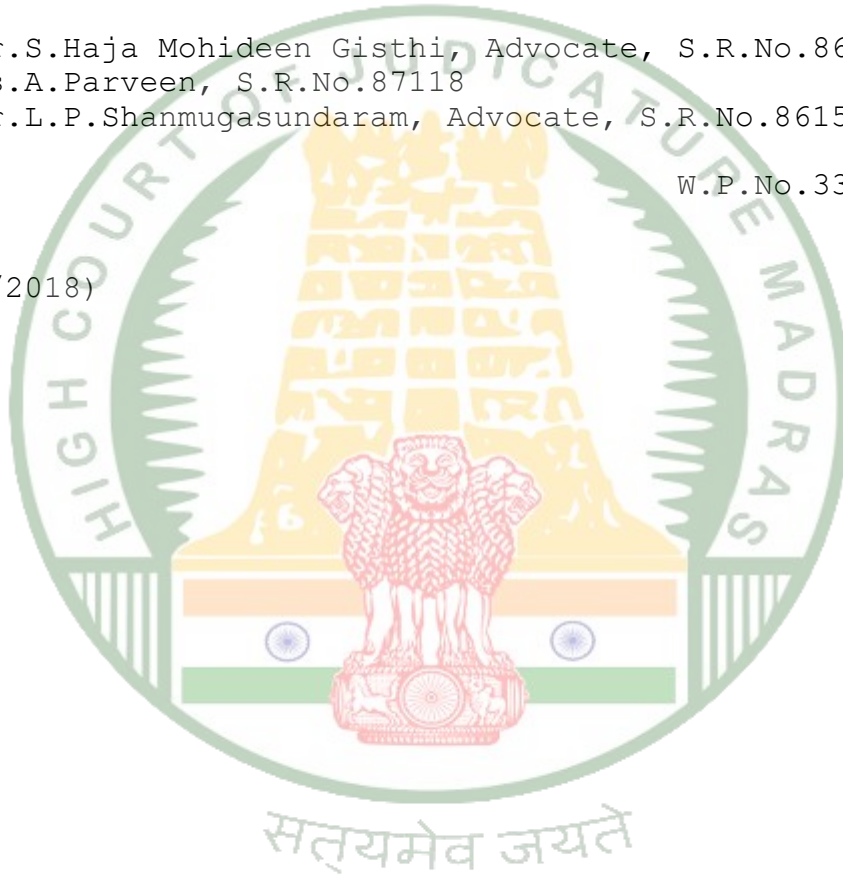
+1cc to Mr.S.Haja Mohideen Gisthi, Advocate, S.R.No.86095

+5cc to Ms.A.Parveen, S.R.No.87118

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.86155

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