



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:11.08.2018
C O R A M

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition (MD) No.17601 of 2018
and
W.M.P. (MD) .No.15469 of 2018

A.Aathi Sivagnanam ... Petitioner
Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Election Officer/Returning Officer,
Tirunelveli Palayamkottai Co-operative
Housing Society Limited, 0.1947,
Tirunelveli.

3.The District Registrar,
Office of the District Housing Society,
Vannarpettai,
Tirunelveli.

4.The Election Commissioner,
State Election Commission,
for Co-operative Societies,
No.273, Anna Salai, Chennai.

.. Respondents

(R-4 is suo motu impleaded vide court order dated 07.08.18
in W.P. (MD) .No.17601 of 2018)

Prayer:Petition filed under Article 226 of the Constitution of India
praying for the issuance of Writ of mandamus directing the 2nd and
3rd respondents to cancel all the process in connection with the
election for the post of office bearers of the Tirunelveli
Palayamkottai Co-operative Housing Society Limited., 0.1947, which
is said to have been taken place on 02.05.2018 and consequently
direct the 2nd respondent to hold the election afresh strictly in
adherence with law for the said posts after receiving the
petitioner's nomination paper.

For Petitioner	: Mr.R.Anand
For Respondents	: Mr.K.Chellapandian Additional Advocate General assisted by Mr.A.K.Baskara Pandian Special Govt. Pleader

O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The writ petition has been filed for issuance of writ of mandamus, directing the 2nd and 3rd respondents to cancel all the process in connection with the election for the post of office bearers of the Tirunelveli Palayamkottai Co-operative Housing Society Limited., 0.1947, which is said to have been taken place on 02.05.2018 and consequently direct the 2nd respondent to hold the election afresh strictly in adherence with law for the said posts after receiving the petitioner's nomination paper.

2.The grievance of the petitioner appears to be with respect to the illegal rejection of nomination. Learned counsel for the petitioner would submit that the petitioner did make an objection over the illegal rejection of nomination. Thus, it is submitted that it is a case, which is covered by a decision rendered by a Division Bench of the Principal Seat of this Court in W.P.No.7526 of 2018 etc & batch, dated 03.08.2018.

3.Considering the same issue, we have also passed an order in W.P.(MD).No.17730 of 2018, etc., batch, dated 10.08.2018. The relevant portion is as under:

"5. Thus, from the above, it is clear that the respondents are bound to comply with the orders passed by the Division Bench of this Court referred to supra. Therefore, we deem it fit to permit the petitioners to bring it to the notice of the Honourable Committee, about the pendency of the objections/complaints and the resultant non-compliance of the respondents.

6. If the Honourable Committee finds that there is a violation of the order passed by the Division Bench or the objections/complaints are sustainable in law and fact, the natural consequences would be the elections held and proposed to be held would get annulled automatically. If there is a violation in the principles, the violator cannot get any benefit for such violation. The aforesaid principle should also be extended to the elected candidates in the election conducted already and to be elected as well. Therefore, we deem it fit to leave it to the wisdom of the Committee, in the light of the observations made above, to take appropriate decision. It is to be noted that this order is only with respect to the pending complaints numbering about 2514.

7. Insofar as the other complaints are concerned, the only remedy open is to invoke the jurisdiction of the Registrar concerned under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983. Since the Hon'ble Division Bench, in the judgment referred supra, has already put an embargo for further litigation,



thereafter, the other issues including the one step have to be dealt with by the Honourable Committees. But no complaints have been given and the issues which have arisen thereafter are necessarily to be dealt with under Section 90 of the Tamil nadu Co-operative Societies Act, alone.

8. For the sake of clarity, the subsequent proceedings in contravention of the order passed by the Division Bench of this Court would certainly be nullity and therefore, the Hon'ble Committees shall proceed as if they have not taken place in the eye of law. In such an eventuality, the question of invoking equity and putting the elected candidates on notice would not arise for consideration.

9. The Registrar concerned or his nominee is expected to expedite the proceedings to be initiated by the complainants. We also fix an outer limit of three months from the date of receipt of the complaints.

10. All these writ petitions stands disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed."

4. Therefore, this writ petition stands disposed of on the same terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
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Tirunelveli.
3. The District Registrar,
Office of the District Housing Society,
Vannarpettai,
Tirunelveli.
4. The Election Commissioner,
State Election Commission,
for Co-operative Societies,
No. 279, Anna Salai, Chennai.



+1cc to M/S.R.Anand, Advocate SR.No. 78385
+1cc to Special Government Pleader, SR.No. 78284

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and
W.M.P. (MD) .No.15469 of 2018
11/08/2018

vs
JM/SKN RSK/SAR 2/13.08.2018/4P/7C