

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 02.04.2018****CORAM :****THE HONOURABLE MR.JUSTICE C.T.SELVAM****And****THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED****W.P (MD) No. 7090 of 2018****and****W.M.P. (MD) No. 6798 & 6799 of 2018**

Mr.R.Kumar

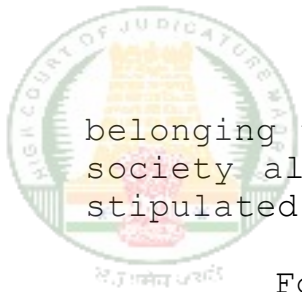
... Petitioner

Vs.

1. The Tamil Nadu State Co-Operative Societies
Election Commission,
Represented by its Commissioner,
No.273, Kamadhenu Supermarket,
1st Floor, Annasalai
Chennai - 600 018.
2. The Registrar of Co-operative Societies,
Office of the Registrar of Co-operative Societies,
Kilpauk,
Chennai - 10.
3. The Deputy Registrar of Co-operative Societies,
O./o. the Deputy Registrar of Co-operative Societies,
Nagercoil - 629 001
Kanyakumari District.
4. The Assistant Director / District Election Officer,
O./o. the Assistant Director of Co-operative Societies,
Department of Handlooms and Textiles
Nagercoil,
Kanyakumari District.
5. The Sub-Registrar,
Co-operative Society,
Saragam
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Notification published on "Dinathanthi" dated 12.03.2018 on the file of the Respondent No.4 and quash the same as illegal and consequently for a direction forbearing the Respondent Nos.1 to 4 from conducting forthcoming elections to be conducted on 03.04.2018 or any other date without allowing the general public



belonging to all political parties to enroll as the members of the society all over the State of Tamil Nadu within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by
Mr.A.K.Baskarapandian
Special Govt.Pleader

ORDER

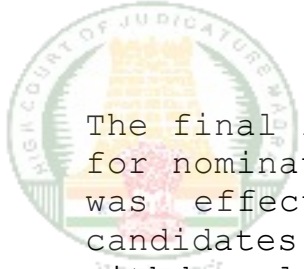
(Order of the Court was made by C.T.SELVAM, J.)

Petitioner seeks quash of the impugned Notification published in the "Dinathanthi" dated 12.03.2018, on the file of the Respondent No.4 and also to forbear the Respondent Nos.1 to 4 from conducting forthcoming elections to be conducted on 03.04.2018 or any other date, without allowing the general public belonging to all political parties to enroll as the members of the Society all over the State of Tamil Nadu.

2. We have heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents.

3. Petitioner's prime submission is that in conducting election to the Tamil Nadu Co-operative Societies to Maravan Kudieruppu Primary Agriculture Co-operative Credit Society, Nagercoil, Kanyakumari District, only candidates who belong to the ruling dispensation are being permitted to contest and to enrol themselves as fresh members and persons belonging to other political parties are not being permitted. New members belonging to the ruling party have been enrolled with ante-dated applications. Therefore, it becomes necessary to appoint Special Officers in all the Co-operative Societies towards removing the names of new members of the ruling party wrongly enrolled and to allow members from all political parties, without preference to any specific party affiliation. Petitioner has made a representation on 14.03.2018 requesting respondents 1 to 4 to forbear from conducting elections on 02.04.2018, in the Co-operative Societies all over the State, but the same has not been considered.

4. Learned Additional Advocate General has informed us that Notification for the election to the Co-operative Societies was effected on 12.03.2018, the voters' list had been published on 19.03.2018, objections there regards have been called on 20.03.2018 and objections received and disposed of on 21.03.2018.



The final list of voters was published on 22.03.2018 and last date for nomination was informed as 26.03.2018. Scrutiny of nomination was effected on 27.03.2018 and the publication of eligible candidates was effected on such date. The last date for withdrawal of nomination was 28.03.2018 on which date the final list of candidates also has been published. Polling has commenced today ie., on 02.04.2018.

5. Learned Additional Advocate General referred the Judgment of the Hon'ble Apex Court in ***Shaji K. Joseph Vs. V.Viswanath & Ors*** in ***Civil Appeal No.1629 of 2016 (arising out of S.L.P(C)No.22902 of 2011)***, wherein in paragraph 14, it has been held as follows:-

14. In our opinion, the High Court was not right in interfering with the process of election especially when the process of election had started upon publication of the election program on 27th January, 2011 and more particularly when an alternative statutory remedy was available to Respondent No.1 by way of referring the dispute to the Central Government as per the provisions of Section 5 of the Act read with Regulation 20 of the Regulations. So far as the issue with regard to eligibility of Respondent No.1 for contesting the election is concerned, though prima facie it appears that Respondent No.1 could contest the election, we do not propose to go into the said issue because, in our opinion, as per the settled law, the High Court should not have interfered with the election after the process of election had commenced. The judgments referred to hereinabove clearly show the settled position of law to the effect that whenever the process of election starts, normally courts should not interfere with the process of election for the simple reason that if the process of election is interfered with by the courts, possibly no election would be completed without court's order. Very often, for frivolous reasons candidates or others approach the courts and by virtue of interim orders passed by courts, the election is delayed or cancelled and in such a case the basic purpose of having election and getting an elected body to run the administration is frustrated. For the aforesaid reasons, this Court has taken a view that all disputes with regard to election should be dealt with only after completion of the election."



6. Following the rationale of the said Judgment, this Writ Petition shall stand dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(w)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

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Represented by its Commissioner,
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Nagercoil,
Kanyakumari District.

+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.59633

+1cc to Spl.Government Pleader Sr.No.59529

MPK

VB/SKN/RSK/SAR3/23.04.2018/4P/8C

Order made in
W.P (MD) No.7090 of 2018
02.04.2018