



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA
and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

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W.P. (MD) No.20405, 20488 and 20878 of 2018
and

W.M.P. (MD) Nos.18174 & 18175, 18231 & 18232 and 18652 & 18653 of
2018

W.P. (MD) No.20405 of 2018

K.Bhagavathi Perumal

... Petitioner

Vs.

1.The State Tamil Nadu Cooperative Societies Election Commissioner,
No.273, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.

2.The District Election Officer / Deputy Registrar,
Cooperative Societies,
Nagercoil Region,
Kanyakumari District.

3.The District Election Officer / Deputy Registrar,
Cooperative Societies,
Thuckalay Region,
Kanyakumari District.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd and 3rd respondent's second phase election notification dated 19.09.2018 issued under Section 52(6)(a) of the Tamil Nadu Cooperative Rules, 1983, which was duly published in the Tamil Daily Thina Thanthi newspapers on 19.09.2018 relating to No.3547 Thoivalai and Agastheeswaram Taluk, Agricultural Producers' Cooperative Marketing Society (Ltd) and No.Y.240, Kanyakumari District Rubber Growers Cooperative Marketing Society and quash the same and notify the societies elections only after the Thazhakudy Primary Agricultural Cooperative Credit Society, Kanyakumari District election result was declared.

For Petitioner : Mr.G.V.Vairam Santhosh



For Respondents : Mr.K.Chellapandian,
2 and 3 Additional Advocate General
assisted by Mr.A.K.Bhaskara Pandian,
Special Government Pleader

W.P. (MD) .No.20488 of 2018

K.Bhagavathi Perumal

... Petitioner

Vs.

- 1.The State Tamil Nadu Cooperative Societies Election Commissioner,
No.273, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.
- 2.The District Election Officer / Assistant Director,
Handloom and Textile Department,
Nagercoil Region,
Kanyakumari District.
- 3.The District Election Officer / Deputy Registrar,
Thazhakudy Primary Agricultural Cooperative Credit Society,
Kanyakumari District. ... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent's impugned order of proceedings in second phase election notification dated 17.09.2018 issued under Section 52(5)(a) of the Tamil Nadu Cooperative Rules, 1983, which was duly published in the Tamil Daily Thina Thanthi newspapers on 17.09.2018 relating to No.Y.238, Kanyakumari District Co-operative Spinning Mill, Aralvaimozhi, Kanyakumari District and quash the same and notify the societies elections only after the Thazhakudy Primary Agricultural Co-operative Credit Society, Kanyakumari District election result was declared.

For Petitioner : Mr.G.V.Vairam Santhosh

For Respondent 1 : Mr.K.Palanisamy

For Respondents : Mr.K.Chellapandian,
2 and 3 Additional Advocate General
assisted by Mr.A.K.Bhaskara Pandian,
Special Government Pleader



W.P. (MD) No. 20878 of 2018

Sengaimaran

... Petitioner

WEB COPY

Vs.

1. The Election Officer,
The Tamil Nadu State Cooperative Societies Election Commission,
No. 273, Anna Salai,
Teynampet, Chennai - 600 018.
 2. The Hon'ble Committee,
No. 187, North Veli Street,
Madurai - 1.
 3. The Election Officer / Deputy Registrar (Milk)
Manamadurai,
Sivagangai District.
 4. The Election Officer,
NN 498, Thiruppuvanam "MPCS" Cooperative Society,
Thiruppuvanam,
Sivagangai District.
- ... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari/Mandamus, to call for the records pertaining to the impugned election notification dated 19.09.2018 of the first respondent herein and quash the same and consequently direct the first respondent to re-notify the election schedule for the V.R.T. 793 Sivagangai District Co-operative Milk Producers Union Executive Committee, after the decision of the Committee/2nd respondent.

For Petitioner : Mr. M. Vallinayagam
Senior Counsel
for M/s. T. Balakrishnan

For Respondent 1 : Mr. K. Palanisamy

For Respondents : Mr. K. Chellapandian,
2 to 4 Additional Advocate General
assisted by Mr. A. K. Bhaskara Pandian,
Special Government Pleader

COMMON ORDER

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

In view of the fact that the issue involved in all the Writ Petitions is one and the same, the Writ Petitions are taken up together and disposed of by a common order.

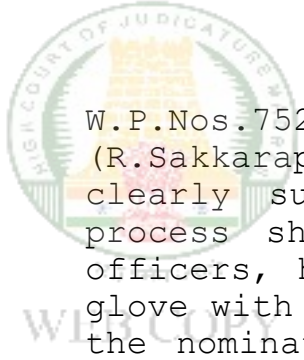


2.W.P.(MD)No.20405 of 2018 has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd and 3rd respondent's second phase election notification dated 19.09.2018 issued under Section 52(6)(a) of the Tamil Nadu Cooperative Rules, 1983, which was duly published in the Tamil Daily Thina Thanthi newspapers on 19.09.2018 relating to No.3547 Thoivalai and Agastheeswaram Taluk, Agricultural Producers' Cooperative Marketing Society (Ltd) and No.Y.240, Kanyakumari District Rubber Growers Cooperative Marketing Society and quash the same and notify the societies elections only after the Thazhakudy Primary Agricultural Cooperative Credit Society, Kanyakumari District election result was declared.

3.W.P.(MD) No.20488 of 2018 has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent's impugned order of proceedings in second phase election notification dated 17.09.2018 issued under Section 52(5)(a) of the Tamil Nadu Cooperative Rules, 1983, which was duly published in the Tamil Daily Thina Thanthi newspapers on 17.09.2018 relating to No.Y.238, Kanyakumari District Co-operative Spinning Mill, Aralvaimozhi, Kanyakumari District and quash the same and notify the societies elections only after the Thazhakudy Primary Agricultural Co-operative Credit Society, Kanyakumari District election result was declared.

4.W.P.(MD) No.20878 of 2018 has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned election notification dated 19.09.2018 of the first respondent herein and quash the same and consequently direct the first respondent to re-notify the election schedule for the V.R.T. 793 Sivagangai District Co-operative Milk Producers Union Executive Committee, after the decision of the Committee/2nd respondent.

5.Mr.M.Vallinayagam, learned Senior Counsel appearing for the petitioner submitted that there are two kinds of disputes generally arise when election notification is issued. The first dispute relates to fight between the contesting candidates and the second dispute relates to the election process wrongly initiated at the instance of the electoral officer. Insofar as the first dispute is concerned, he pleaded that this Court always refuses to entertain any Writ Petition under Article 226 of the Constitution of India, leaving the parties to work out their remedy to approach the Election Tribunal under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 within sixty days from the date of declaration of the results. Insofar as any dispute touching the election process, if any one approaches this Court as it has been initiated at the instance of the electoral officer, this Court always entertains the same. But, in the present case, an order passed on 03.08.2018 by the Hon'ble Division Bench of this Court in



W.P.Nos.7526 of 2018 and batch and W.A.(MD)No.739 of 2018 (R.Sakkarapani and others Vs. the State of Tamil Nadu and others) clearly supports the case of the petitioner that the election process should be initiated fairly and freely by the electoral officers, has been completely spoiled. Since they also go hand in glove with some of the candidates and started refusing and rejecting the nomination papers filed by the contesting parties with vested interest to ensure that one group of candidates are elected to run the affairs of the cooperative societies, this Court, in R.Sakkarapani's case (cited supra) highlighting how the election process has been completely hijacked, finally by appointing four learned Judges (Retired) from this Court, entrusted with the task of deciding the objections and complaints of the wrongful inclusion and omissions in the voters' list, wrongful acceptance, non-acceptance or rejection of nomination papers, wrongful acceptance or rejection of ballot papers and other disputes with regard to elections, that goes without saying that the writ petitions filed alleging various irregularities made by the Electoral Officer require to be entertained by this Court under Article 226 of the Constitution of India.

6. Similar is the case brought before this Court by the petitioner that when the petitioner has been severely aggrieved by the expansion of the area of the society in which he is a member on the ground that new voters are going to be brought into his society who are going to support the other persons which has been done with mala fide motive and for this when representation has been given not to extend the area of the petitioner's society, that issue has not been decided. In the meanwhile, the results of the first phase of the elections held have not been declared. Therefore, after the declaration of the results, the respondents can very well proceed to hold the second phase of election. But, after declaring the results to the first phase, the respondents should go for election to the second phase. This request cannot be refused. Therefore, the Writ Petition is to be entertained, the learned Senior Counsel pleaded.

7. Mr.K.Chellapandian, learned Additional Advocate General opposing the above arguments made by the learned Senior Counsel for the petitioner, submitted that out of 158 Cooperative Societies, elections were over almost for 157 Societies leaving the only one society for which the petitioner has already given a representation that has been seized by the Committee as ordered by this Court on 03.08.2018 passed in W.P.Nos.7526 of 2018 and batch. When the Committee is going to take reasonable time, it is not fair on the part of the respondents and equally on the part of the petitioner to make all the elected office bearers or Board of Directors in all 157 numbers to wait and loose their term of office. On the other hand, the petitioner can be made to wait till the final decision is pronounced by the Committee headed by Hon'ble Mr.Justice R.S.Ramanathan (Retd.). For the sake of one society, if elected Board of Directors and Office bearers of 157 cooperative societies are made to loose their chance of filing their nomination to the



second phase of election, that would definitely run contrary to the spirit of the mandate given under Article 243-ZK of the Constitution of India read with Section 33 (11) (a) of the Tamil Nadu Co-operative Societies Act, 1983, for, as per the said statutes, election of the Board shall be conducted before the expiry of the term of the Board so as to ensure that the newly elected members of the Board assume office immediately on the expiry of the term of the office of members of the outgoing Board, therefore, as highlighted above, in the cases on hand, when elections to 157 cooperative societies were already over, they cannot be made to sit dormant.

8. Thus, we also find merits in the said submission made by the learned Additional Advocate General, the reason being that when election to 157 cooperative societies were all over and elected representatives were all anxiously waiting for filing nomination to the second phase of election, this Court is afraid to hold that the office bearers and Board of Directors in one cooperative society, namely, the petitioner society cannot deprive the elected Board of Directors and also the office bearers of 157 cooperative societies.

9. In fine, for the reasons stated above, the Writ Petitions fail and the same are dismissed. No costs. Consequently, the connected Writ Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

To

- 1.The State Tamil Nadu Cooperative Societies Election Commissioner,
No.273, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.
- 2.The District Election Officer / Deputy Registrar,
Cooperative Societies,
Nagercoil Region,
Kanyakumari District.
- 3.The District Election Officer / Deputy Registrar,
Cooperative Societies,
Thuckalay Region,
Kanyakumari District.
- 4.The Election Officer,
The Tamil Nadu State Cooperative Societies Election Commission,
No.273, Anna Salai, Teynampet, Chennai - 600 018.



5.The Hon'ble Committee,
No.187, North Veli Street,
Madurai - 1.

6.The Election Officer / Deputy Registrar (Milk)
Manamadurai,
Sivagangai District.

7.The Election Officer,
NN 498, Thiruppuvanam "MPCS" Cooperative Society,
Thiruppuvanam, Sivagangai District.

8.The District Election Officer / Assistant Director,
Handloom and Textile Department,
Nagercoil Region,
Kanniyakumari District.

9.The District Election Officer / Deputy Registrar,
Thazhakudy Primary Agricultural Cooperative Credit Society,
Kanniyakumari District.

+2CCs TO MR.G.V.VAIRAM SANTHOSH, ADVOCATE IN SR.NOs.89261,89262.
+1 cc to Special Government Pleader, SR.Nos.89189,89190,89193.

SRM

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and
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