



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :20.08.2018

CORAM:

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

W.P (MD) No.18091 of 2018
and
W.M.P. (MD) No.15981 of 2018

M.Saravanan

.. Petitioner

Vs.

1.The Commissioner,
Election Commission for Tamil Nadu Co-operative Society,
No.273, Anna Salai,
Tenampet,
Chennai.

2.The District Election Officer/
Assistant Director of Fisheries,
Lakshmipuram 2nd Street,
Pudukkottai.

3.The Election Officer/Inspector of Fisheries,
FC-1277, Fisherman Co-operative Society,
R. Pudupattinam,
Avudaiyarkovil Taluk,
Pudukkottai District.

.. Respondents

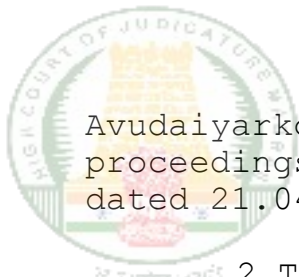
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the election conducted in respect of FC-1277, Fisherman Co-operative Society, R-Pudupattinam, Avudaiyarkovil Taluk, Pudukkottai District, pursuant to the proceedings of the first respondent in Na.Ka.No.321/2018/Koo.The 1, dated 21.04.2018 as null and void.

For Petitioner	: Mr.T.Lenin Kumar
For Respondents	: Mr.K.Chellapandian, Additional Advocate General, assisted by Mr.A.K.Baskara Pandian Special Government Pleader

ORDER

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

<https://hcservices.ecourts.gov.in/hcservices/>
This writ petition has been filed for issuance of a Writ of Declaration, to declare that the election conducted in respect of FC-1277, Fisherman Co-operative Society, R-Pudupattinam,



Avudaiyarkovil Taluk, Pudukottai District, pursuant to the proceedings of the first respondent in Na.Ka.No.321/2018/Koo.The 1, dated 21.04.2018 as null and void.

2.The grievance of the petitioner is that the election has been conducted, notwithstanding the objection of the petitioner, pending consideration with the Honourable Committee. 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.The issue involved in the writ petitioner is no longer res integra.

4.If that is the case, considering the similar issue, we have already passed a comprehensive order in W.P.(MD).No.17730 of 2018, etc., batch, dated 10.08.2018, holding that in such an event, it will be pending objection notwithstanding the subsequent development that has taken place, if the objections are sustainable, the subsequent election would become a nullity. The relevant portion is extracted 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."

5. Thus, with the above said observation, the writ petition is disposed of. This order is passed on the premise that the objections/complaints made by the petitioner are pending consideration with the Honourable Committee. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

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R. Pudupattinam,
Avudaiyarkovil Taluk,
Pudukottai District.



+1CC to Mr.T.Lenin Kumar Advocate in SR.No.79163.

+1CC to Special Government Pleader in SR.No.79703.

VS

DS/SKN/SAR-2 :30.08.2018: 4P/6C

ORDER MADE IN
W.P (MD) No.18091 of 2018
and
W.M.P. (MD) No.15981 of 2018
20.08.2018