



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2018

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CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 23622 of 2018

and

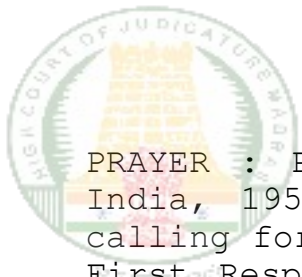
W.M.P. (MD) No. 21415 of 2018

S. Habib Raja

... Petitioner

-vs-

1. The Chairman,
Enquiry Committee for Co-Operative Election (West Zone),
Central Co-Operative Bank,
Opposite to Railway Junction,
Coimbatore.
2. The Election Commissioner,
Tamil Nadu State Co-Operative Societies,
Election Commission,
No. 273, Anna Salai,
Teynampet,
Chennai - 600 018.
3. The District Election Officer/
Deputy Registrar of Co-Operative Societies,
Dindigul District.
4. The Superintendent of Police,
Dindigul District.
5. The Deputy Superintendent of Police,
Batlagundu Range,
Dindigul District.
6. The Election Officer/Co-Operative Sub-Registrar,
A.723, Batlagundu Co-operative Urban Bank,
Batlagundu Range,
Dindigul District.



PRAYER : Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the First Respondent in Petition No. 000246 and 000247 of 2018 dated 23.11.2018 and quash the same as illegal and consequentially to direct the Respondents to conduct fresh election in respect of A.723, Batlagundu Co-operative Urban Bank Limited in a free and unbiased manner under CCTV footage within a period that may be stipulated by this Court.

For Petitioner : Mr. G. Prabhu Rajadurai
for Ajmal Associates

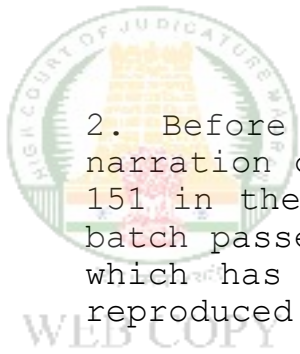
For Respondents : Mr. A.K. Baskarapandian,
Special Government Pleader,
(for R1 to R5)
Mr. Veerakathiravan,
Senior Counsel,
for Mr. C. Jeganathan (for R7)

ORDER

(Order of the Court was made by P.D. AUDIKESAVALU, J.)

1.The Petitioner had contested in the election to the Board of Directors of the Sixth Respondent, viz., A.723, Batlagundu Co-operative Urban Bank, held on 01.09.2018. The Division Bench of this Court by order dated 10.09.2018 in W.P. (MD) No. 19416 of 2018 filed by another contestant, viz, K. Ganesan, in that election had passed the following order:-

"6. As there has been various claim made by the Petitioner and counter claim also made by the Second to Fifth Respondents and taking note of the direction issued by the Division Bench of this Court in a batch of Writ Petitions in W.P. Nos. 7526 batch etc., dated 03.08.2018, appointing Justice R.S. Ramanathan (Retd.) as a Chairperson for the committee for South Zone and since the Fifth Respondent Society also falls within the South Zone, we hereby direct the Chairperson of the Committee for South Zone to take stock of the entire circumstances and proceed with the matter forthwith. The Second to Fifth Respondents are directed to co-operate with the Committee. The Election Officer/Co-operative Sub Registrar of A.723, Batlagundu Co-operative Urban Bank/Fifth Respondent is hereby directed to hand over the key of the room, wherein all the records are kept including the vote and other things. On receipt of the same, Mr. Justice R.S. Ramanathan (Retd.) is given liberty to decide whether they can proceed from the stage of counting the vote or fresh election to be held from the stage of releasing the final list of candidates."



2. Before proceeding further, for the purpose of completion of narration of facts, it would be useful to refer to para nos. 146 and 151 in the order dated 03.08.2018 in W.P. Nos. 7526, etc., of 2018 batch passed by the First Bench of this Court at the Principal Seat, which has been referred in the aforesaid order, and the same is reproduced as hereunder:-

"146. In disputes with regard to polling, counting of votes, etc., the Committees will look into the ballot papers to see if the votes have validity been cast. However, in the event resolution of the dispute requires detailed evidence, the Committee shall remit the Complainants/Objectors to their alternative remedy under Section 90 of the 1983 Act and refer the disputes to the Registrar of the Co-operative Societies, who shall appoint a panel of three Arbitrators to adjudicate the dispute.
151. Disputes with regard to the conduct of elections, that is, polling, counting, etc., may be raised within fifteen days from the date of publication of notice. In case, a dispute is referred to Registrar for constitution of an arbitral Tribunal, the same shall be decided by the arbitral Tribunal within three months from the date of reference by the Committees."

3. The disputes relating to the counting of votes raised by the Petitioner, viz., S. Habib Raja and the Seventh Respondent, viz., K. Ganesan, in the aforesaid election held on 01.09.2018 in respect of the Sixth Respondent, viz., A.723, Batlagundu Co-operative Urban Bank, was decided by the aforesaid Committee under the Chairmanship of a retired Judge of this Court by proceedings dated 23.11.2018, which has been impugned in this Writ Petition.

4. When the matter came up for admission before this Court on 28.11.2018, this Court permitted the Election Officer to go ahead with the counting as scheduled which was stated to be on 30.11.2018, but restrained declaration of results, until further orders. Today, it is represented by the Election Officer that the counting of votes has been completed and decision of declaration of results awaits further orders of this Court. At that stage, Learned Counsel appearing for the Petitioner submitted that inasmuch as the nature of disputes raised in the present case requires detailed evidence, he has sought the permission of this Court to withdraw the Writ petition with liberty to avail the remedy of referring that dispute to the Registrar of the Co-operative Societies under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983, and he has made an endorsement to that effect, which is recorded.

5. Accordingly, we permit the Election Officer to declare the results of the election held on 01.09.2018 for the Board of Directors of the Sixth Respondent, viz., A.723, Batlagundu Co-operative Urban Bank, and dismiss the Writ Petition as withdrawn with liberty to the Petitioner to pursue the remedy available under



Section 90 of the Tamil Nadu Co-operative Societies Act, 1983, in respect of disputes relating to the counting of votes in that election. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

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6. The Election Officer/Co-Operative Sub-Registrar,
A.723, Batlagundu Co-operative Urban Bank,
Batlagundu Range,
Dindigul District.

+1 cc to M/s.Ajmal Associates, SR.NO.99007
+1 cc to M/s.Veera Associates, SR.NO.99053
+1 cc to Spl.Govt.Pleader, SR.NO.98915

vjt

SS/RSK/SAR 4/21.12.2018/4P/10C