



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2018

CORAM:

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

W.P.(MD) No.19956 and 19957 of 2018
and
WMP(MD) Nos.17753 to 17756 of 2018

A.Puvesnathan ... Petitioner in WP(MD)No.19956/2018
K.Mutharasu ... Petitioner in WP(MD)No.19957/2018

vs.

- 1.The State Government of Tamilnadu,
rep.by its Secretary to the Government,
Department of Food and Cooperative Societies,
Chennai - 5.
- 2.The Election Commissioner,
Tamil Nadu State Cooperative Societies
Election Commission,
No.273, Kamadhenu Supermarket (1st floor),
Annasalai,
Chennai - 600 018.
- 3.The Deputy Registrar of Cooperative Societies/
The District Election Officer,
Thoothukudi,
Thoothukudi District.
- 4.The Election Officer,
O.159, Thoothukudi Melur Cooperative Bank,
No.31A, North Sambantha Moorthy Street,
Thoothukudi - 2.
- 5.K.Mathiazhagan,
Election Officer,
O.159, Thoothukudi Melur Cooperative Bank,
Circle Supervisor,
Thoothukudi Central Cooperative Bank,
Ottapidaram,
Thoothukudi District.



6. O.159, Thoothukudi Melur Cooperative Bank,
No.31A, North Sambantha Moorthy Street,
Thoothukudi - 2,
through its Assistant General Manager.

... Respondents in both W.Ps.

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Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 11.09.2018 passed by the 2nd respondent in Na.Ka.6868/2018/Koo.Thee.2 as well as the consequential proceedings dated 12.09.2018 passed by the 3rd respondent in Na.Ka.No.513/2018 Koo.Thee and the consequential selected candidates list made by the 4th respondent dated 15.09.2018 and quash the same and further directing the respondents 2 to 4 to accept the nomination of the petitioners and to conduct the election afresh in a fair, unbiased and democratic manner by appointing a new election officer in respect of the 6th respondent society viz., O.159, Thoothukudi Melur Cooperative Bank, Thoothukudi.

For Petitioners	: Mr.M.P.Senthil (both writ petitions)
For R1 to R4	: Mr.A.K.Baskarapandian Special Government Pleader (both writ petitions)

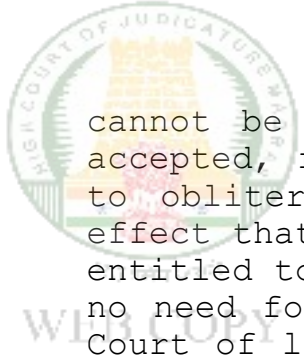
COMMON ORDER

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

The petitioners, whose nominations were rejected have come forward to challenge the impugned order of the second respondent dated 11.09.2018 and the consequential proceedings dated 12.09.2018 issued by the third respondent.

2.The learned counsel appearing for the petitioners would submit that without any basis, nominations were rejected. An employee of the cooperative society has been appointed as an Election Officer, which is contrary to Rule 52(3) of the Tamil Nadu Cooperative Societies Rules, 1988. Sufficient time has also not been granted as mandated under Rule 52(5). As per Rule 52(8)(e), candidates or the representatives were not allowed to examine all the nomination papers.

3.Rule 52(3)(a) of the said Rules provides for power to the District Election Officer to appoint certain officers as Election Officers. Accordingly, it provides for officers and employees of cooperative societies to function as Election Officers. The learned counsel interpret this Rule to mean that one has to be Election Officer as well as employee of the cooperative society. In other words, it is submitted that mere employee of the cooperative society



cannot be an Election Officer. The aforesaid statement cannot be accepted, for more than one reason, if it is accepted, it will lead to obliterate the word employee. The Rule is very clear to the effect that both an officer or an employee of cooperative society is entitled to be appointed as an Election Officer. Otherwise, there is no need for the word employee. While interpreting the statute, the Court of law cannot ignore the word mentioned. What is required to be done is interpretation should be made reasonably. Thus, the aforesaid contention is rejected.

4. In so far as the other contentions raised are concerned, we are dealing with reelection. Therefore, there is no need for treating the election for the first time. Inasmuch as the petitioners' nominations were rejected, non compliance of Rule 52(8) cannot be raised at this stage. After all, these are all the matters to be agitated by way of invoking provision under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983.

5. In such view of the matter, these writ petitions are dismissed, giving liberty to the petitioners to file appropriate application before the concerned Registrar of Co-operative Societies. As and when application is filed, the Registrar shall consider and dispose of the same within a period of three months from the date of receipt of application from the petitioners. If any application is filed seeking interim order, the same will have to be considered within a period of two weeks from the date of filing such application. Further, the Election Officer is directed to communicate a copy of rejection of petitioners' nominations within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, WMP(MD)Nos.17753 to 17756 of 2018 are closed.

Sd/
Assistant Registrar(CO)

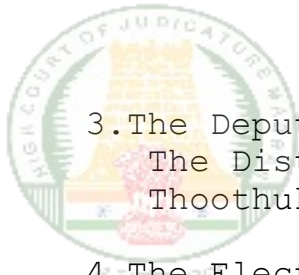
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Sub Assistant Registrar(CS-III)

To

1. The Secretary to the Government,
State Government of Tamilnadu,
Department of Food and Cooperative Societies,
Chennai - 5.

2. The Election Commissioner,
Tamil Nadu State Cooperative Societies
Election Commission,
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3.The Deputy Registrar of Cooperative Societies/
The District Election Officer,
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4.The Election Officer,
O.159, Thoothukudi Melur Cooperative Bank,
No.31A, North Sambantha Moorthy Street,
Thoothukudi - 2.

+2cc to Mr.M.P.SENTHIL, Advocate, SR.No.84995, 84996
+1cc to M/s.Special Government Pleader,SR.No. 85202

W.P. (MD) No.19956 & 19957 of 2018
18.09.2018

MJ
KK/RP/SAR-3/19.09.2018/4P-8C