



WEB COPY

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**

W.P. (MD) No.20384 of 2018

and

W.M.P. (MD) .No.18146 of 2018

K.V.Jude Dev

... Petitioner

Vs.

- 1.The Commissioner,
Dairy Co-operative Societies Limited,
Madhavaram Milk Colony,
Chennai-600 051.
- 2.The Chief Election Commissioner,
Cooperative Societies,
Teynampet, Chennai.
- 3.The District Election Officer/
Deputy Registrar (Dairy)
Kanyakumari District Dairy Cooperative
Societies Limited,
District Collectorate, Nagercoil,
Kanyakumari District-629 001.
- 4.Kanyakumari District Milk Producers
Co-operative Union (Aavin)
rep. by its Chairman,
Paalpannai, Nagercoil,
Kanyakumari District-001.
- 5.The Secretary,
Y.36, Neyyoor Mekankarai Ramachandra Nadar
Milk Producer Cooperative Society,
West Neyyoor Post-629 803,
Kanyakumari District.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 2nd and 3rd respondents to conduct election in the 5th

respondent Society namely 'Y-36-Neyyoor Mekankarai Ramachandra Nadar Milk Producers Cooperative Society, West Neyyoor, before proceedings with the election to the 4th respondent Union namely the Kanyakumari District Milk producers Cooperative Union (Aavin), Nagercoil, Kanyakumari District.

For Petitioner : Mr.Ragatheesh Kumar
for M/s.Isaac Chambers
For Respondents : Mr.Vijay Narayan
Advocate General assisted by
Mr.A.K.Baskara Pandian
Special Government Pleader
for RR-1, 3 to 5
Mr.M.S.Palanisamy for R-2

ORDER

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

Mr.K.V.Jude Dev, claiming to be a member of the fifth respondent Society viz., Y-36-Neyyoor Mekankarai Ramachandra Nadar Milk Producers Cooperative Society, West Neyyoor, Kanyakumari District, has come to this Court with this writ petition, filed under Article 226 of Constitution of India, for issuance of Writ of Mandamus, directing the Chief Election Commissioner, Cooperative Societies, Teynampet, Chennai and the District Election Officer/Deputy Registrar (Dairy), Kanyakumari District Dairy Cooperative Societies Limited viz., the 2nd and 3rd respondents to conduct election in the 5th respondent Society namely 'Y-36-Neyyoor Mekankarai Ramachandra Nadar Milk Producers Cooperative Society, West Neyyoor, pending disposal of the writ petition.

2.Mr.Ragatheesh Kumar, learned counsel appearing for the petitioner submitted that the petitioner is a member of the 5th respondent Co-operative Society. As per the bye-law, any person, who sells 300 litres of milk per year or a person who gives milk for 120 days in a year is eligible to become a member of the Society. On the other hand, any person, who is unable to satisfy the said condition of giving 300 litres of milk per year or giving milk for 120 days in a year is not eligible to be a member of the society. According to him, only the person who continues to give the milk in every financial year is eligible to vote and contest in the election for the Board of Directors. There are 52 Milk Producers Societies in the District of Kanyakumari and each society is governed by 11 Board of Members, headed by a President. Out of 11 Board of Directors, two must belong to Scheduled Caste and 3 must belong to women and 6 must belong to General Category and one President and one Vice-President will be elected among the elected Board of Directors and their term of office is for five years. All the 52 Societies can be put together to form a single Union namely Kanyakumari District Producers Cooperative Union (Aavin/4th respondent herein). The 4th respondent is governed by 17 Board of Directors elected among the Presidents, Women and Scheduled Caste



representatives of 52 Societies.

3. For the purpose of electing the Board of Directors for the Aavin, 52 Milk Producers Societies are divided into 9 regions. Moreover, each region is to elect one Board of Director for Aavin among the elected Presidents for each region. Among these 17 Board of Directors, 9 will be elected for each region and remaining 8 will be elected in the ratio of 5:3 namely 5 Women candidates and 3 Scheduled Caste candidates. With this background, he further submitted that when the last election was conducted in the year 2013, for conducting election for the year 2018, under the guidance of 1st and 2nd respondents, the third respondent/Deputy Registrar issued election notification for all the 52 Societies. Following the same election notification, the third respondent issued another election notification for conducting election for 52 societies under 4 phases on 19.03.2018.

4. One Mr. S. Jacob Gerald Jeyahar was appointed as Electoral Officer for appointing the eligible voters. After getting the list of members from the Secretary of the 5th respondent, he has also published the list containing 93 eligible voters in the Notice Board of the Society, wherein, the name of the petitioner has been shown at serial No. 80. However, one Mr. Ashokan, who is the present Chairman of Aavin appears to have insisted some authorities not to include the name of the petitioner in the list on the apprehension that the petitioner has a fair chance of becoming a successful candidate in the election. On the instigation of the said Ashokan, one Mr. Lenin took away Minutes Book, Members Admission Register, Receipt Book and Payment Register of the 5th respondent Society and efforts were made to delete his name, but the Election Officer has included his name. In spite of releasing the eligible list showing the name of the petitioner, the said Mr. Ashokan, again insisted the Electoral Officer to resign from the post. Only on the pressure mounted on him, the Electoral Officer resigned his post. Mr. Lenin was appointed as Electoral officer. The said Mr. Lenin colluding with Mr. Ashokan has prepared a fresh eligible list removing the name of the petitioner. But the said list failed to contain signature of the Electoral officer or the date of publication. Since the forged signature of the Secretary of the 4th respondent is put by preparing a seal, a complaint was made to the third respondent, District Election Officer/Deputy Registrar (Dairy) on 28.03.2018 and a criminal complaint has been made before the Colachel Police Station on 31.03.2018 and one more complaint was made before the District Collector and the Superintendent of Police, Kanyakumari on 28.03.2018 and the same are pending. Since the petitioner became eligible, as per the original voters' list released on 28.03.2018, he filed his nomination for the post of Board of Directors to contest in the election. But the Election Officer refused to accept his nomination citing the 2nd Voters List. Therefore, the petitioner was constrained to file W.P.(MD).No.7184 of 2018, seeking a direction to accept his nomination and permit him to contest in the election in the 5th respondent Society.



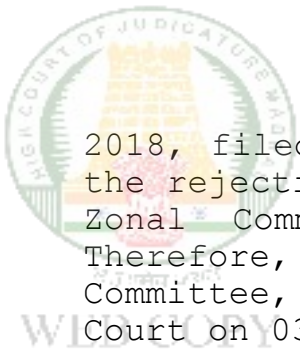
5. In W.P.(MD).No.7184 of 2018, this Court reserved orders on 05.04.2018 and pronounced orders on 06.04.2018, allowing the writ petition, directing the 3rd respondent/District Election Officer/Deputy Registrar (Dairy) and the 7th respondent/Election Officer to accept the petitioner's nomination filed on 31.03.2018 before the seventh respondent Electoral Officer and permitted him to contest in the ensuing election for the post of Board of Directors in the eighth respondent society scheduled to be held on 07.04.2018. As against the said order, W.A.(MD).No.739 of 2018 has been filed before a Division Bench and this has been tagged along with a batch of writ petitions and finally, the said writ appeal was also dismissed on 03.08.2018. That shows that the direction issued by the learned Single Judge is bound to be complied with. When the respondents are duty bound to hold election on 07.04.2018, till date, no such election is conducted, the reason being, due to the intervention of this Court, an order of status-quo was granted in W.P.(MD).No.7620 of 2018. Thereafter, an appeal was preferred before the Honourable Apex Court against the status-quo order granted by this Court. The Hon'ble Apex Court also, by an order dated, 20.04.2018 evicted the interim order dated 09.04.2018 and directed the Election Commissioner to conduct the pending 4th phase of elections. However, the Election Commissioner announced the date of election for other societies. But the respondents have not announced date of election to the 5th respondent society for first phase. When the first phase of election in the 5th respondent society is pending, the respondents cannot proceed to conduct the second phase of election, therefore, the petitioner has also given representations on 24.4.2018 and 05.05.2018 to the 2nd and 3rd respondents, seeking to conduct election to the 5th respondent Society. However, the respondents have not taken any steps to conduct election to the 5th respondent Society. According to the petitioner, if the respondents proceed further to hold the second phase of election, without conducting the first phase of election to the 5th respondent Society, the petitioner would be losing his valuable right to contest and get elected in the second phase to the post of Board of Directors to Aavin.

6. Arguing further, the learned counsel appearing for the petitioner has submitted that release of the final list may not disentitle or deprive the petitioner from filing his nomination, when the matter is pending. Taking support from the order of the learned Single Judge, he has submitted that when the learned Single Judge has specifically observed, it is a disappointment, taking advantage of the fact that there was no stay order, the respondents cannot proceed in finalizing the voters' list. That shows the conduct of the respondents in not holding an election, permitting the petitioner to contest and without conducting the election to the first phase, their attempt to conduct the second phase is impermissible in law.



7. The second respondent, Secretary, Tamil Nadu State Co-operative Societies Election Commission, Chennai filed a detailed counter affidavit. Mr. M.S. Palanisamy, learned Standing Counsel for Chief Election Commissioner, Co-operative Societies, submitted that the writ petition filed by the petitioner is legally not maintainable, for the reason, the petitioner is not even eligible to be a voter. Since the petitioner has not supplied requisite quantity of 300 litres of milk in the previous year and he is also not having any milk animal, an order was passed on 27.03.2018, removing the name of the petitioner from the Voters' list. The Electoral Officer, finding some tricks, happened in including the name of the petitioner, exercising his power under Rule 52 (1) (d), rightly passed an order on 27.03.2018, removing his name from the Voters' list. Till date, the petitioner has not questioned the order dated 27.03.2018. Adding further, the learned Advocate General submitted that even in the order passed by the learned Single Judge, arguments made by the learned counsel appearing for the petitioner have been recorded on the issue of removal of his name from the Voters' list. But it is not known as to why the petitioner has not questioned the correctness of the order dated 27.03.2018. In any event, a direction has been issued by the learned Single Judge allowing the writ petition to accept his nomination filed on 31.03.2018, before the 7th respondent Electoral Officer and permit him to contest in the ensuing election for the post of Board of Directors in the 8th respondent society therein, scheduled to be held on 07.04.2018. The writ appeal filed against the order of the learned Single Judge was taken up for hearing on 03.08.2018. Finally, on 03.08.2018, the Honourable Division Bench, by order dated 03.08.2018, while disposing of a batch of writ petitions and one writ appeal, filed by the District Election Officer, directed that the issue raised in respect of 5th respondent Society in respect of first phase of election to be gone into by Zonal Committee, headed by Justice R.S. Ramanathan (Retd.), as Chairperson of the Committee for the South Zone along with the writ appeal filed by the District Election Officer/3rd respondent herein. Three more writ petitions in WP.Nos. 7533 to 7535 of 2018 filed by the rejected candidates were also directed to be disposed of by the Chairperson of the Committee. Writ appeal filed by the third respondent was dismissed. Yet another election can be held to the 5th respondent for the first phase. Unless the Committee headed by the Justice R.S. Ramanathan (Retd.,) gives quietus to the issue raised in favour of the petitioner and the three other similarly placed persons, it is not even known how he can plead before this Court that they are entitled to contest in the second phase of election.

8. Adding further, he has submitted that when there are 52 Milk Producers Societies functioning in Kanyakumari District, except 2 societies, in 50 Co-operative Societies, elections were completed and elected Board of Directors have already assumed Office. Only in Manikatti Pottal Milk Producers Co-operative Society, election could not be conducted in view pendency of W.P.Nos. 10458 and 10459 of



2018, filed by one Subbiah and Durai before this Court, challenging the rejection of nomination. Two writ petitions are referred to the Zonal Committee and representations are pending for enquiry. Therefore, the matter for election is admittedly pending before the Committee, as per the direction issued by the Division Bench of this Court on 03.08.2018, passed in W.P.Nos.7526 & etc., batch 2018.

9.Learned Advocate General appearing for other respondents urged this Court to dismiss this writ, as it fails to carry any merit.

10.Again referring to Section 33 (11) (a) of the Tamil Nadu Co-operative Societies Act, 1983, learned Advocate General further submitted that the election of a 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. While so, the mandates of Section 33 (11) (a) of the Tamil Nadu Co-operative Societies Act, 1983 and Article 243-ZK Part IX-B of the Constitution of India, clearly show that the writ petition filed by the petitioner is wholly unjustifiable and not maintainable inasmuch as if the prayer in this writ petition is entertained that would run contra to the Constitutional mandates given under Article 243-ZK Part IX-B of the Constitution of India.

10.It is necessary to refer to that, when an argument is advanced by the learned Advocate General that the prayer in the writ petitions is running contra to the Constitutional mandates given under Article 243-ZK Part IX-B of the Constitution of India, it is relevant to extract the same as under:

"243-ZK: Election of Members of Board:- (1) Notwithstanding anything in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the terms 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.

(2)The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law;"

Moreover, for better appreciation, Section 33 (11) (a) of the Tamil Nadu Co-operative Societies Act, 1983 is reproduced as follows:

"33.Constitution and meetings of the board:-

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<https://hcservices.ecourts.gov.in/hcservices/>

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11.
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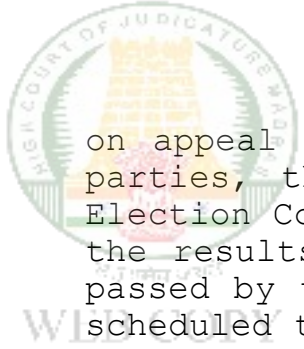
(a) the members of the board of the registered society shall be elected by the members of the registered society by secret ballot in such manner as may be prescribed."

A conjoint reading of the above provisions clearly shows that term of office of members who are elected to any Board, constituted under the Act shall be five years. Moreover, every co-opted member of the Board shall hold office only for such period, for which, such member would have been entitled to hold office if such members had been elected to the Board.

11. As already stated, Section 33 (11) (a) of the Tamil Nadu Co-operative Societies Act, 1983 shows that notwithstanding anything contained in this Act, election of a 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. The fifth year term of office of the elected Board of Directors in 3rd and 4th phase had already expired on 09.07.2018 and 18.08.2018 respectively and the five year term of office of the elected Board of Directors in phase-V has also expired on 29.09.2018, therefore, the respondents are under constitutional obligation to proceed to hold election to phase II, III, IV and V. Otherwise, it would run contra to the spirit of Article 243-ZK Part IX-B of the Constitution of India. With this background, if the case of the petitioner is analysed, the allegations made by the petitioner shows that except his name, other names have been inserted, as though he is not owning milk animals and also not supplying 300 litres of milk per year.

12. Heard Mr. Ragatheesh Kumar, learned counsel appearing for the petitioner, Mr. Vijay Narayan, learned Advocate General, appearing for the respondents 1, 3 and 5 and Mr. M. S. Palanisamy, learned counsel appearing for the second respondent in this regard.

13. Mr. M. S. Palaniswamy, learned Standing Counsel for the second respondent pleaded that as the Election Commission and Electoral Officers are responsible for the proper conduct of elections, as per the provisions of the Tamil Nadu Co-operative Societies Act and Rules, after drawing a programme for the election to the Co-operative Societies, the first phase of elections in respect of Primary Co-operative Societies were conducted in four stages on different dates for different Societies at different places between 12.03.2018 and 07.04.2018 for 4,684 Primary Co-operative Societies and the elected Office Bearers have also assumed office on 07.04.2018. In the second phase of election, when the process of counting and declaring the results were on, this Court has granted an order of status quo in W.P.No.7620 of 2018 on 09.04.2018. As against that, the Election Commission took the matter



on appeal in S.L.P(C)Nos.10051-10059 of 2018 and after hearing the parties, the Honourable Supreme Court on 20.04.2018 permitted the Election Commission to proceed with the election, but not to publish the results without the leave of the Court. Again, after the order passed by the Honourable Supreme Court, the Election Commission re-scheduled the election on 21.04.2018 in respect of second, third and fourth stage of elections and on 07.05.2018, the Honourable Supreme Court passed the order remanding the matters back to this Court to decide the matters raised in W.P.No.7620 of 2018. Consequently, the Honourable First Division Bench of this Court, by common order dated 03.08.2018 disposed of all the similarly placed batch of writ petitions and constituted four Committees to look into the complaints in respect of 543 writ petitions and with regard to other Societies, the Election Commission was allowed to declare the results. By virtue of that order, the election results of Primary Co-operative Societies were also declared and the elected Board assumed office in 17,416 Societies out of 18,468 Societies. Now, the elections in 94.30% of Primary Co-operative Societies were concluded.

14. Adding further, Mr.M.S.Palaniswamy, learned Standing Counsel for the second respondent submitted that for various reasons, elections could not be conducted in 1,052 Primary Co-operative Societies, because (i) complaints in respect of 393 Societies are pending before the Committee; (ii) No nominations were received from 455 Societies; (iii) Elections were cancelled/postponed in 152 Societies; and (iv) In 52 Societies, due to lack of quorum, Office Bearers Elections were not declared. In view of the above reasons, to promote the autonomous functions in a democratic way in all the Co-operative Societies, the Election Commission has issued Phase II Election programme for conduct of election for 197 Co-operative Societies in proceedings dated 15.09.2018. In the meanwhile, the electoral list of the fifth respondent Society was also prepared showing the petitioner's name on 24.03.2018 in the eligible voters list. Objections to include his name were raised on 26.03.2018. The said objections were scrutinised and verified on 27.03.2018. Finally, the Electoral Officer found that the petitioner does not even own milch cows and nor does he engage himself in the trade of milk vending and he did not supply 300 liters of milk during the last year and hence, he failed to satisfy the primary qualification to be a voter. When the fundamental requirement to satisfy his eligibility to be a voter is absent, he cannot aspire to stand for election and file his nomination.

15. Mr.M.S.Palaniswamy, learned Standing Counsel for the second respondent also submitted that the petitioner is not even a voter and he cannot stand for election and therefore, he cannot maintain the present writ petition. Moreover, his complaint is pending before the Committee appointed by this Court. Therefore, he cannot stall the second phase of elections. Further, the fifth



respondent Society received nominations as per the schedule on 31.03.2018 and thereafter, scrutiny of nominations was also made on 02.04.2018. Consequently, the list of eligible candidates was published on the same day. The Election Officer having received fifteen nominations, after scrutiny, rejected four nominations on various grounds on 02.04.2018 and published the final list of eleven contesting candidates. Among four rejected members, three persons filed Writ Petition (MD)Nos.7533 to 7535 of 2018 before this Court and the same were clubbed with the batch of writ petitions then pending before the Honourable First Bench of this Court in Writ Petition (MD)No.7620 of 2018, etc. The Honourable First Bench of this Court, by common order dated 03.08.2018 constituted Zonal Committees and appointed the Honourable Mr. Justice R.S. Ramanathan (Retd.,) and unless the Zonal Committee completes its exercise, the petitioner cannot maintain the present writ petition.

16. Mr. Vijay Narayan, learned Advocate General appearing for the respondents 1, 3, 4 and 5, referring to Article 243-ZK of the Constitution of India, pleaded that by virtue of the Constitution (97th Amendment) Act, 2011, Part IX B, the Co-operative Societies were given constitutional status to promote voluntary formation, autonomous functioning, democratic control and professional management of Co-operative Societies. By virtue of Article 243-ZK of the Constitution of India, the election of a board shall be conducted before the expiry of five years from the date of election and the term of office bearers shall be conterminous with the term of the board. In view of the non-obstante clause in Article 243-ZK of the Constitution of India, the Election Commission has issued Phase-II election programme for conduct of election for 197 Co-operative Societies in its proceedings dated 15.09.2018. Since the elections were held and the elected board assumed office in as many as 17,416 Co-operative Societies out of 18,468 Co-operative Societies, namely, in 94.30% of Primary Co-operative Societies, elections were conducted. When the election process was initiated for conduct of second phase of elections in 197 Co-operative Societies, the petitioner who is not even a voter and whose grievance is also seized by the South Zone Committee headed by the Honourable Mr. Justice R.S. Ramanathan (Retd.,) with two Joint Registrars of Co-operative Societies and two District Collectors of the Zone, he has to establish his case before the Committee and only if he is able to succeed, he can be a voter and only then, he gets eligibility to contest in the election. Before crossing that stage, the petitioner is not entitled to maintain the present writ petition and therefore, the same is liable to be dismissed.

17. We also find merits on the submissions made by the learned Advocate General appearing for the respondents 1, 3, 4 and 5 and further submissions made by the learned Standing Counsel for the second respondent.

18. The term of office of elected members of the board and its office bearers being five years from the date of election,



Article 243-ZK of the Constitution of India, which is given as under:

"243-ZK. Election of members of board.- (1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a 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.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections."

clearly shows that notwithstanding anything contained in any law made by the Legislature of a State, the election of a 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.

19. Now, in the present case, elections were held and elected board assumed office in as many as 17,416 Co-operative Societies out of 18,468 Co-operative Societies, i.e., in 94.30% of Primary Co-operative Societies, elections were held and only 1,052 Co-operative Societies, the elections are to be conducted as many complaints are pending before the Committees in respect of 393 Co-operative Societies and in respect of 455 Co-operative Societies, no nominations were received and similarly, in 152 Co-operative Societies, elections were cancelled/postponed and elections for the office bearers were not declared due to lack of quorum in respect of 52 Co-operative Societies. The election process for Phase-II Co-operative Societies was communicated in its letter RC.No.6734/2018/CE1, dated 15.09.2018 and the Election Commission also issued Phase-II election programme for conduct of election for 197 Co-operative Societies on 15.09.2018.

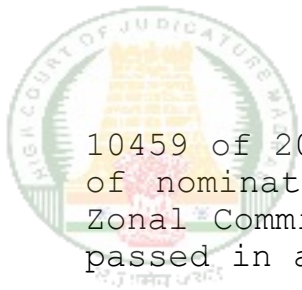
20. Now, the contention made by the learned Counsel for the petitioner that without holding election for the first phase, the respondents cannot go for election for the second phase, no doubt, appears to be reasonable as it is contended that his valuable right to get elected in the first phase will be lost and as a result, he will not be able to represent the second phase. However, when the petitioner is not even a voter, he cannot stand for election either to the first phase or second phase. Originally, the petitioner's name was published on 24.03.2018 in the eligible voters list. However, when objections were raised by two members on 26.03.2018,



they were scrutinised and verified on 27.03.2018 and the Election Officer found that the petitioner is not owning any milch cows. Moreover, he does not engage in the trade of milk vending.

21. To reply to the same, the learned Counsel for the petitioner also produced relevant documents to show that he is owning two milch animals and supplying the milk, but it has been examined and the Election Officer has found that in collusion with the office bearers, certain interpolation has been made in the Register as though he is owning two cows and supplying milk. In any event, the Secretary of Y-36, Neyyoor Mekankarai Ramachandra Nadar Milk Producers Co-operative Society - fifth respondent herein, has received nominations as per the schedule on 31.03.2018 and after scrutiny of the same, published the list of eligible candidates on 02.04.2018. After scrutiny, four nominations were rejected on various grounds by the Election Officer and subsequently, the Election Officer also published final list of 11 contesting candidates and thereafter, the Election Officer has declared 11 candidates as duly elected. Among four rejected members, three persons filed Writ Petition(MD)Nos.7533 to 7535 of 2018 before this Court and the same were clubbed along with the batch of writ petitions pending in Writ Petition(MD)No.7620 of 2018, etc. The petitioner also filed Writ Petition(MD)No.7484 of 2018 for a writ of Mandamus to direct the respondents 3 to 7 therein to accept the nomination of the petitioner filed on 31.03.2018 before the seventh respondent therein so as to permit the petitioner to contest in the ensuing election. This Court, by order dated 06.04.2018, directed the respondents 3 to 7 to accept his nominations filed on 31.03.2018 before the seventh respondent - Election Officer and permit him to contest in the ensuing election for the post of Board of Directors in the eighth respondent Society scheduled to be held on 07.04.2018. As against the said order dated 06.04.2018 passed in Writ Petition (MD)No.7484 of 2018, Writ Appeal(MD)No.739 of 2018 was filed before the First Division Bench of this Court and the common order dated 03.08.2018 passed in a batch of writ petitions in Writ Petition(MD) No.7526 of 2016, etc., and Writ Appeal(MD)No.739 of 2018 shows that Writ Appeal(MD)No.739 of 2018 is dismissed. However, three writ petitions filed in Writ Petition(MD)Nos.7533 to 7535 of 2018 clubbed with the said batch of writ petitions were referred to the Zonal Committee, which are admittedly pending for enquiry. Therefore, when the election in fifth respondent Society is pending before the Committee as per the directions of the Honourable First Bench of this Court in Writ Petition(MD)Nos.7526 of 2018, etc., he cannot maintain the present writ petition unless the Committee for South Zone takes a final call and disposes of the grievances raised in Writ Petition(MD)Nos.7533 to 7535 of 2018.

22.As a matter of fact, when there are 52 Primary Co-operative Milk Societies in Kanyakumari District, admittedly, elections were held in all 50 milk societies, except two societies. In Manikattai Pottal Milk Producers' Co-operative Society, election could not be conducted in view of the pendency of W.P.Nos.10458 and



10459 of 2018, filed by Subbiah and Durai, challenging the rejection of nominations. The said writ petitions are now referred to the Zonal Committee, appointed by this Court, by order dated 03.08.2018 passed in a batch of writ petitions.

23. Insofar as the 5th respondent Society is concerned, after rejection of four nomination papers, three members have filed three writ petitions in W.P.(MD).Nos.7533 to 7535 of 2018 and they are also pending before the Zonal Committee. Therefore, even for a moment, if we accept the case of the petitioner that he succeeded before the learned Single Judge and on appeal, the learned Division Bench dismissed the appeal on 03.08.2018, in view of pendency of writ petitions, relating to the 5th respondent Society before the Zonal Committee and two more writ petitions filed in respect of Manikattai Pottal Milk Producers' Co-operative Society filed by the one Subbiah and Durai, the respondents are not legally entitled to hold election either to the 5th respondent Society or to Manikattai Pottal Milk Producers' Co-operative Society. In that view of the matter, we are not inclined to entertain the prayer of the petitioner.

24. Thirdly, when elections were all conducted in 50 Co-operative Societies, for the sake of holding elections to the petitioner in the first phase of election in respect of two societies, we cannot make the elected Board of Directors in all primary Milk Producers Co-operative Society to wait. That would also deprive them enjoying the full tenure of five years.

25. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

SD
ASSISTANT REGISTRAR (WRITS)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS I)

vs
To

1. The Commissioner,
Dairy Co-operative Societies Limited,
Madhavaram Milk Colony,
Chennai-600 051.

2. The Chief Election Commissioner,
Cooperative Societies,
Teynampet, Chennai.



3.The District Election Officer/
Deputy Registrar (Dairy)
Kanyakumari District Dairy Cooperative
Societies Limited,
District Collectorate, Nagercoil,
Kanyakumari District-629 001.

4.Kanyakumari District Milk Producers
Co-operative Union (Aavin)
rep. by its Chairman,
Paalpannai, Nagercoil,
Kanyakumari District-001.

5.The Secretary,
Y.36, Neyyoor Mekankarai Ramachandra Nadar
Milk Producer Cooperative Society,
West Neyyoor Post-629 803,
Kanyakumari District.

1CC TO M/S. ISAAC CHAMBERS - ADVOCATES SR 89120
1CC TO THE SPL GOVT PLEADER SR 89197

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W.P. (MD) No.20384 of 2018

05.10.2018