



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.20381 of 2018

and

W.M.P. (MD) .Nos.18141 and 18142 of 2018

V.P.Ammavasai

... Petitioner

Vs.

- 1.The Election Commission,
Tamil Nadu State Co-operative Societies,
rep. by Election Commissioner,
No.273, Kamadenu Super Market,
I Floor, Anna Salai,
Chennai-18.
- 2.The Registrar/Commissioner of Milk-Cum
State Election Officer,
Madavaram Milk Colony,
Chennai-51.
- 3.The Deputy Registrar-Cum-District Election Officer,
Madurai AAVIN Complex,
Sathamangalam, Madurai-20.
- 4.The Special Officer,
A1301 Madurai District Milk Producers Cooperative Union,
Madurai.
- 5.The Chairman,
South Zone,
Committee for Enquiring Complaints,
concerning Cooperative Elections,
No.187, North Veli Street,
Madurai 01.
- 6.O.Raja,
President,
TID245, Rosy Nagar Milk Producers Society,
Bodenthiyapuram,
Bodi Taluk, Theni District.

... Respondents



PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 3 herein to conduct free and fair election to the 4th respondent under the supervision of the 5th respondent by appointing any other official other than AAVIN & Madurai Dairy Development Department, as the Election Officer to the 4th respondent with adequate Police Force under video coverage of each and every election process of the 4th respondent and also to publish all stages of election through online in the official website.

For Petitioner : Mr.Veera.Kathiravan, Sr. Counsel
for M/s.Veera Associates
For Respondents : Mr.K.Palanisamy for R-1
Mr.A.K.Baskara Pandian
Special Government Pleader
for RR-2 to 4
MR.C.Arul Vadivel @ Sekar for R6

ORDER

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

In regard to the allegation of history-sheeted rowdy against maintaining the present writ petition, the learned Senior Counsel appearing for the petitioner, responded by way filing a reply affidavit, dated 05.10.2018 and explained that out of 7 cases, the first case in C.C.No.191/15 filed against the petitioner by her own sister was quashed as the dispute is within their family. In respect of C.C.No.58/2013 on file of the learned Judicial Magistrate, Theni, the case was ended in acquittal on 07.08.2018. Sofar as the third case in Cr.No.975/2015 on the file of the Palanichettipatty Police Station is concerned, the respondent Police have themselves come forward and closed the same as mistake of fact. With regard to the case in Cr..No.352 of 2016 on the file of the Palanichettipatty Police Station is concerned, the petitioner was acquitted by a judgment dated 28.02.2017. Fifth case is relating to Cr.No.323 of 2016 on the file of the Theni Police Station, in which, the petitioner was arrayed as A-2 and the same is pending. Similarly, in a case in C.C.440/2013, the petitioner has been arrayed as A-27 out of 33 accused and in yet another case relating to C.C.No. 296/2017 on the file of the Judicial Magistrate, Theni, the petitioner is arrayed as A-1 and the same is pending consideration.

2.Adding further, he had submitted that the petitioner is not seeking any relief against the sixth respondent or even against the other respondents, as the prayer is going to benefit both the



parties.

3. When the petitioner is seeking a direction to the respondents 1 to 3 to conduct free and fair election to the fourth respondent Co-operative Society under the supervision of the 5th respondent with adequate Police Force under video coverage of each and every election process of the 4th respondent and also to publish all stages of election through online in the official website, the learned Special Government Pleader appearing for the respondents submitted that out of 8 cases pending against the petitioner, the petitioner was acquitted in five cases. In one of the case, the Police have closed the matter as 'Mistake of Fact' and only two cases are pending.

4. The learned Senior Counsel appearing for the petitioner also brought to the knowledge of this Court, the order passed by a Division Bench of the Principal Bench of this Court dated 16.07.2018 in W.P.Nos.8093 and 8094 of 2018, wherein, this Court directed the Election Commissioner, Tamil Nadu State Co-operative Societies Election Commission, to publish the details of members/voters, the notice for inviting objections to list the members/voters and the last date for filing such objections, the list of candidates who have filed nomination papers for election, the names of the candidates whose nominations have been rejected with the reasons for rejection, the final list of candidates contesting the elections and the list of elected candidates, after the elections are held. If possible, the nomination papers may be scanned and uploaded in the website. However, if that is not possible or feasible for technical reasons, such as, the capacity of the website, copies be given to any member asking for the same. Hence, he prayed that a similar direction can be issued in this case also to the Election Commission.

5. Mr. Palanichamy, learned counsel appearing for the first respondent submitted that against the said order, appeal has been filed. He has also submitted that when the State is going for parliamentary election, sufficient funds have been allotted, similarly to meet out the local body expenses, the State Government is providing sufficient funds. So far as elections to be held in the Co-operative societies are concerned, no financial assistance is provided. On the contrary, they have to meet out the entire expenses only through the fund available with the Co-operative Societies. That is why, most of the Co-operative Societies have become defunct and they are also hardly eking out their survival, hence, it is highly difficult to meet out substantial amounts to hold the election.

6. The learned counsel appearing for the petitioner would submit that so far as these societies are concerned, they are financially well therefore, the direction issued by this Court on 16.07.2018 can also be considered.



7. Considering the fact that the prayer asked for by the petitioner to hold free and fair election under the supervision of the fifth respondent/Chairman, South Zone, Committee for Enquiring Complaints concerning Cooperative Societies has already been refused, however, considering the fact that relief sought for is only for a limited purpose, we are inclined to direct the respondents 1 to 3 to conduct free and fair election to the fourth respondent Co-operative Society under the supervision of the 5th respondent with adequate Police Force under video coverage of each and every election process. As per the earlier order dated 16.07.2018, passed in Writ Petition(MD).Nos.8093 and 8094 of 2018, the Election Commissioner, Tamil Nadu State Co-operative societies, is directed to comply with the same by scanning the nomination papers and uploading in the website. If that is not feasible, copies can be given to any member asking for the same.

8. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The Election Commission,
Tamil Nadu State Co-operative Societies,
rep. by Election Commissioner,
No.273, Kamadenu Super Market,
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Madurai AAVIN Complex,
Sathamangalam, Madurai-20.



4.The Special Officer,
A1301 Madurai District Milk Producers Cooperative Union,
Madurai.

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+1 CC To MR.C.ARULVADIVEL @ SEKAR, Advocate SR. NO. 89049

+1 CC To MR.VEERA ASSO., Advocate SR. NO. 88983

+1 CC TO The Special Government Pleader SR.NO.89196

W.P. (MD) No.20381 of 2018

05.10.2018

VS

TR/SV/SAR-IV(01.11.2018) 5P 8C