



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.10.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.394 of 2019
& W.M.P.Nos.394 & 403 of 2019

R.Gunaseelan,
S/o.M.P.Rajan,
No.5/20, Ameer Sayub Street,
Kottur Malayandipattanam Post - 642 114,
Pollachi Taluk, Coimbatore District. ... Petitioner

/versus/

1. The State Election Commissioner,
Cooperative Election,
Kamadhenu Super Market Building,
No.273, Scheme Road, Subburaya Nagar, Teynampet,
Anna Salai, Chennai -18.
2. The Deputy Registrar of Cooperative Societies,
Pollachi Circle, Pollachi, Coimbatore District.
3. K.N.Balakrishnan,
4. S.Kulandaivadivel,
5. M.Mahalisamy,
6. C.Manivel,
7. G.Kalasaraswathi,
8. M.Bakkiyalakshmi,
9. S.Kalaiarasi, ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.2328/2018 Sa.Pa dated 21.12.2018.

For Petitioner : Mr.C.Prakasam

For R1 : Mr.M.S.Palaniswamy,
Standing Counsel

For R2 : Mr.T.Girija, Government Advocate

O R D E R

Heard the Learned Counsel for the Petitioner and Learned Counsel for the Respondents.

2. The allegation of the petitioner herein is that, the private respondents 3 to 9 were not disqualified for holding the post in the Co-operative Society since the surcharge proceedings are pending against them and therefore, under Section 34 (5) (b) of the Co-operative Societies Act, they are not eligible for contesting election or holding the Office.

3. However, from the counter filed by the respondents 1 and 2, it appears that the process of the election for the said society commenced on 30.04.2018. On the day of nomination the respondents 3 to 9 were not facing any surcharge proceedings under Section 87 of the Tamil Nadu Cooperative Societies Act. Only, on 05.07.2018, the 2nd respondent has caused notice to the respondents 3 to 9, calling upon their explanation why they should not be declared disqualified in view of surcharge proceedings. For the said notice, the respondents 3 to 9 have given their explanation and enquiry is pending.

4. In the light of the above fact, since on the date of receiving nomination, the respondents 3 to 9 were fully eligible and not disqualified, the prayer in the present Writ Petition is to quash the proceedings of the 2nd respondent, dated 21.12.2018 cannot be entertained. However, from the records, we find that the respondents 3 to 9 are facing surcharge proceedings under Section 87 of the Act and therefore, their continuation in the Office is not in consonance with law, particularly as per Section 34 (5) (b) of the Co-operative Societies Act.

5. In the said circumstances, taking note of the fact that, the 2nd respondent has already initiated proceedings under Section 34(5)(b) of the Co-operative Societies Act. It is suffices to direct the 2nd respondent to complete the enquiry initiated under Section 34 (5) (b) vide notice dated 12.07.2018, within a period of six weeks, from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The State Election Commissioner,
Cooperative Election,
Kamadhenu Super Market Building,
No.273, Scheme Road, Subburaya Nagar, Teynampet,
Anna Salai, Chennai -18.
2. The Deputy Registrar of Cooperative Societies,
Pollachi Circle, Pollachi, Coimbatore District.

+1cc to Mr.C.Prakasam, Advocate Sr.89339
+1cc to the Government Pleader Sr.89621

W.P.No.394 of 2019

rsk[co]
srg 05/11/2019

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