

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1799 of 2019
and
W.M.P.No.1987 of 2019

M.Chennakesavan

.. Petitioner

Vs

- 1.The Commissioner,
Tamilnadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Chennai - 600 018.
- 2.The District Election Officer and
Deputy Registrar of Co-operative
Societies Dharmapuri,
Dharmapuri District.
- 3.The Election Officer,
S.8633, Periannahalli Primary
Agricultural Co-operative Credit
Society Ltd., Periannahalli & Post,
Dharmapuri Taluk,
Dharmapuri District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings Na.Ka.8604/2018 Koo.The5 dated 18.12.2018 and quash the same and consequently direct the respondents to complete the election process for the post of Board of Directors of the third respondent society from the stage where it was stopped by the election officer.

For Petitioner : Mr.S.Kamadevan

For Respondent 1 : Mr.M.S.Palaniswamy,
Standing Counsel for
Tamilnadu State Co-op
Societies Election Commission

For Respondent 3 : Ms.T.Girija
Government Advocate

ORDER

With the consent of either side, the writ petition itself is taken up for disposal.

2. The facts of the case is that when the election process has been announced, nominations have been filed and scrutiny was also over, the 3rd respondent had postponed the election. Subsequently, without assigning any reasons whatsoever, the 1st respondent passed the order cancelling the entire election to the 3rd respondent society. Challenging the said orders, this writ petitioner earlier filed W.P.No.12454 of 2018.

3. It is further averred in this Writ Petition that the Election to the Board of Directors of the third respondent-Co-operative Society was conducted in May 2013 and that the petitioner was one among the elected members. The tenure was five years and it came to an end on 09.05.2018. The election process to the 11 Board of Directors was commenced by issuing notification by the second respondent. The petitioner submitted the nomination papers; after scrutiny of the nomination, the third respondent, notified the names of 33 eligible candidates on 23.04.2018 in the notice board. However, thereafter, the third respondent himself had announced that the elections are being withheld and postponed as there is a possibility of riot and violence in the Election Date.

4. While the earlier Writ Petition No.12454 of 2018 filed by this Petitioner, challenging the action of the third respondent, was pending, the first respondent passed orders cancelling the entire election by order dated 09.08.2018. On hearing the submissions of both sides, this Court, by order dated 11.09.2018, held as follows in paragraph No.7:-

"Earlier, after scrutiny of nominations and publication of valid nominations, the 3rd respondent Election Officer had postponed the election. Thereafter, the present order has been passed by the 1st respondent, thereby cancelling the election to the 3rd respondent Cooperative Society without assigning any reason. Even though the 1st respondent is empowered to cancel the election under Rule 52(10)(a) of the Tamil Nadu Cooperative Societies Rules, while cancelling the election, the 3rd respondent ought to have given valid reason for the same and he cannot pass a non-speaking order and cancel the entire election, and on the ground, the impugned order passed by the 1st respondent is liable to be set aside and accordingly, it is set aside. Now, the matter is remanded back to the 1st respondent and the 1st respondent is directed to pass a detail order after giving reasons for the same within a period of four weeks from the date of receipt of the copy of this

order."

This Court after quashing the earlier proceedings passed by the first respondent, pointed out that it is a cryptic order and further, given a specific direction to the first respondent to pass a detailed order after giving reasons. However, it is apparent that the order dated 18.12.2018 impugned in this Writ Petition has been passed in the same cryptic manner. Therefore, this court while observing that the action of the first respondent is in scant respect and in disregard to the orders of this Court.

5. At this stage, the learned standing counsel appearing for Tamil Nadu State Cooperative Societies, Election Commission, would submit that a perusal of the order the first respondent shows that the first respondent has not passed a detailed order as directed by this court but only based on the rules, nevertheless, the 1st respondent has formed an opinion and passed orders.

6. The learned counsel for the Petitioner submits that the only requirement is that as directed by this court by order dated 11.09.2018, in W.P.No.12454 of 2018, a detailed order is to be passed after giving reasons for cancelling the entire election.

7. In the light of the above submissions and that this Court is not satisfied with the manner in which the impugned order is passed by the first respondent, dated 18.12.2018, that too, when this Court has earlier specifically directed the first respondent to pass a detailed order and even thereafter, the same cryptic order has been passed by the first respondent, and this court wanted to pass a stringent order, considering the submission made by the learned Standing counsel for Election Commission, that the Election Commissioner would not commit such mistake again, this court has no hesitation to quash the impugned order. Accordingly, the impugned order dated 18.12.2018 passed by the 1st respondent is set aside. The 1st respondent is directed to pass a detailed fresh order after giving reasons for the proceedings dated 09.08.2018, within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations, this Writ Petition stands allowed. No cost. Consequently, the connection writ miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rna/nvsri

To

- 1.The Commissioner,
Tamilnadu State Co-operative
Societies Election Commission,
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- 2.The District Election Officer and
Deputy Registrar of Co-operative
Societies Dharmapuri,
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- 3.The Election Officer,
S.8633, Periannahalli Primary
Agricultural Co-operative Credit
Society Ltd., Periannahalli & Post,
Dharmapuri Taluk,
Dharmapuri District.

+1cc to Mr. L.P.Shanmuga Sundaram, Advocate, S.R.No. 9942
+1cc to Mr. S.Kamadevan, Advocate, S.R.No. 10197
+1cc to the Government Pleader, S.R.No. 9700

W.P.No.1799 of 2019
and W.M.P.No.1987 of 2019

SAI (CO)
GN(11/03/2019)

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