

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2019

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.3740 of 2019
& W.M.P.No.4137 of 2019

B.Lenin,
S/o.N.M.Bhoj Kumar,
No.2/290, Nedugula Village & Post,
Kotagiri (Taluk),
The Nilgiris District. Petitioner

/versus/

1. The Commissioner,
Tamil Nadu State Co-operative Societies,
Election Commission, Chennai - 600 018.
2. The District Election Officer,
(Co-operative Societies),
The Nilgiris (District).
3. The Election Officer,
J-319, Jedayalinga Primary Agricultural
Cooperative Credit Society,
Nedugula, The Nilgiris District.
4. The Secretary,
Hon'ble Enquiry Committee for
Co-operative Elections (West Zone)
Coimbatore.
5. K.K.Madhan,
S/o.Late Kulla Gouder
Kurukkathi Village,
Nedugula Village & Post,
Kotagiri (Taluk), The Nilgiris (District)
6. R.Krishnan,
S/o.Raman,
Kurukkathi Village,
Nedugula Village & Post,
Kotagiri (Taluk), The Nilgiris (District)

7. A.Kakki,
S/o.Late. Ahdi,
Nedugula Village & Post,
Kotagiri (Taluk),
The Nilgiris (District).

8. B.Kari,
S/o.Bahunni Bellan,
Kottapulli Village & Post,
Kotagiri (Taluk),
the Nilgiris (District).

9. M.Krishnan,
S/o.Madhan,
Nedugula Village & Post,
Kotagiri (Taluk), The Nilgiris (District)

10. M.N.Raman,
S/o.Nanja Gouder,
Sundatti Village,
Kotagiri Taluk,
The Nilgiris (District). Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent relating to the impugned order in case No.190/2018, dated 04.01.2019 and quash the same and consequently direct the respondents 1 to 3 herein to conduct the election afresh as per Rule 53 (11(c) of the Tamil Nadu Co-operative Societies Rules 1988.

For Petitioner : Mr.V.Manoharan

For R1 : Mr.M.S.Palanisamy

For R2 to R4 : Mr.Bala Ramesh
Additional Government Pleader

O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner herein wants to contest in the Jedayalinga Primary Agricultural Co-operative Credit Society, has presented the nomination under General category, however, his nomination has been wrongly rejected. Therefore, he has filed the writ petition before this Court. Pursuant to the order passed by the Division Bench, a committee was constituted

headed by Justice S.Rajeswaran to look into the compliance regarding mal-practise. In the committee vide order dated 04.01.2019 has found merit in the complaint of the petitioner herein and therefore, set aside the election of six members elected under the General Quota of the 3rd respondent society.

3. Pursuant to that the Returning Officer, has decided to conduct fresh election accepting the nomination of the petitioner alone and proceed further. The said procedure is contrary to the established procedure and law. Having declared the election for six General seats as null and void, a fresh notification has to be issued by the Election Commission for this six General seats, inviting nomination from the eligible candidates and thereafter, election has to be conducted.

4. The petitioner herein contents that the order of the committee dated 04.01.2019 restricting to six seats under the General category alone is improper. The entire election process ought to have been set aside. This contention of the petitioner is baseless and without any merits. The committee constituted by this Court has found the rejection of the petitioner nomination improper and therefore, an opportunity to participate in the election, declaring the election of the six members under the General Category alone is sufficient and therefore, the election of six members alone has been rightly set aside. When there is no dispute regarding the election of the other 5 members falling under the Special Category, there is no reason to set aside their election.

5. Hence, the Writ Petition is dismissed. No costs. However, the 1st respondent is directed to issue fresh notification for the six seats under General category and proceed in accordance with law. Consequently, Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm

To,

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4. The Secretary,
Hon'ble Enquiry Committee for
Co-operative Elections (West Zone)
Coimbatore.

+1cc to Mr. M.C.Govindan, Advocate, S.R.No. 55605
+1cc to the Government Pleader, S.R.No. 56568

W.P.No.3740 of 2019

EV(CO)
GN(23/07/2019)



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