

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.3790 of 2019 and
W.M.P.No.4200 of 2019

P.Sampath

... Petitioner

Vs.

1.The Election Commissioner,
Tamil Nadu State Co-operative Societies
Election Commission,
273, Kamadenu Super Market Complex,
Teynampet, Chennai-18.

2.The District Election Officer (Co-operative Societies),
Erode District.

3.The Election Officer,
K 885 Chennimalai Weavers Co-operative Society Ltd.,
(Chentex), Perundurai Taluk,
Erode District.

... Respondents

PRAYER : Petition filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus, forbearing the respondents from conducting election for the post of Chairman and Vice Chairman with respect of the third respondent Society till the disposal of Election Petition filed by the petitioner herein with respect irregularities happened in the Members Selection.

For Petitioner: Mr.S.Lakshmanasamy

For Respondents: Mr.M.S.Palanisamy for R1
Mr.L.P.Shanmugasundaram,
Spl.Govt.Pleader for RR2 & 3

O R D E R

The petitioner has filed the present writ petition to issue a writ of Mandamus to forbear the respondents from conducting an election for the post of Chairman and Vice Chairman with respect to the third respondent Society till the disposal of the Election Petition filed by the petitioner herein.

2. According to the petitioner, the petitioner has filed the nomination before the third respondent on 06.10.2018, to contest in the election for the post of Director of the respondent Society. But, without assigning any reasons, the petitioner was not permitted to contest in the election by the third respondent. Hence, the petitioner filed a writ petition in W.P.No.27219 of 2018 before this Court. By order dated 31.10.2018, this Court has passed an order in paragraph No.5 as follows:-

"5. Considered the rival submissions made by both sides. It is the case of the respondents that the petitioners have withdrawn their nominations and the same is disputed by the petitioners, this disputed question cannot be decided in the writ petition. Apart from that, the results also were declared, hence the only remedy now available to the petitioners is to file an election petition under Section 90 of the Tamil Nadu Co-operative Societies Act, and therefore, the writ petitions are dismissed. The petitioners are given liberty to file an election petition to challenge the election conducted by the third respondent in the manner known to law, within a period of two weeks from the date of receipt of a copy of this order and on filing such petition, the election authorities are directed to consider the election petition filed by the petitioners in accordance with law, within a period of three months thereafter. No costs."

3. Pursuant to the aforesaid order, the petitioner has submitted a petition to the first respondent on 31.10.2018. Pending the said petition, on 04.02.2019, the respondents herein announced to conduct election for the post of Vice Chairman and Chairman. Hence, the present writ petition has been filed before this Court.

4. The learned Special Government Pleader appearing for the respondents 2 to 3 would submit that the petitioner has not complied with the order of this Court by filing Election Petition before the Assistant Director of Handlooms and Textiles, Erode, within the time fixed by this Court. Therefore, the petitioner cannot seek any relief as prayed in the present writ petition.

5. The learned counsel for the petitioner would submit that the petitioner has submitted the election petition before the concerned authority by challenging the election of Directors of the Society. Further, the learned counsel would submit that due to the bona fide mistake, the petitioner has approached the first respondent instead of Assistant Director of Handlooms and Textiles, Erode.

6. The learned Special Government Pleader appearing for the respondents 2 to 3 would fairly submit that if the petitioner approach the authority concerned with proper Election Petition, the same would be considered in accordance with law, as expeditiously as possible.

7. By considering the submissions of the learned counsel on both sides, this Court is inclined to direct the petitioner to approach the Assistant Director of Handlooms and Textiles, Erode, by way of filing Election Petition, within a period of one week from today. On receipt of such petition, the Assistant Director of Handlooms and Textiles, Erode, is directed to consider the same in accordance with law, as expeditiously as possible.

8. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Election Commissioner,
Tamil Nadu State Co-operative Societies
Election Commission,
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Teynampet, Chennai-18.

2.The District Election Officer (Co-operative Societies),
Erode District.

3.The Election Officer,
K 885 Chennimalai Weavers Co-operative Society Ltd.,
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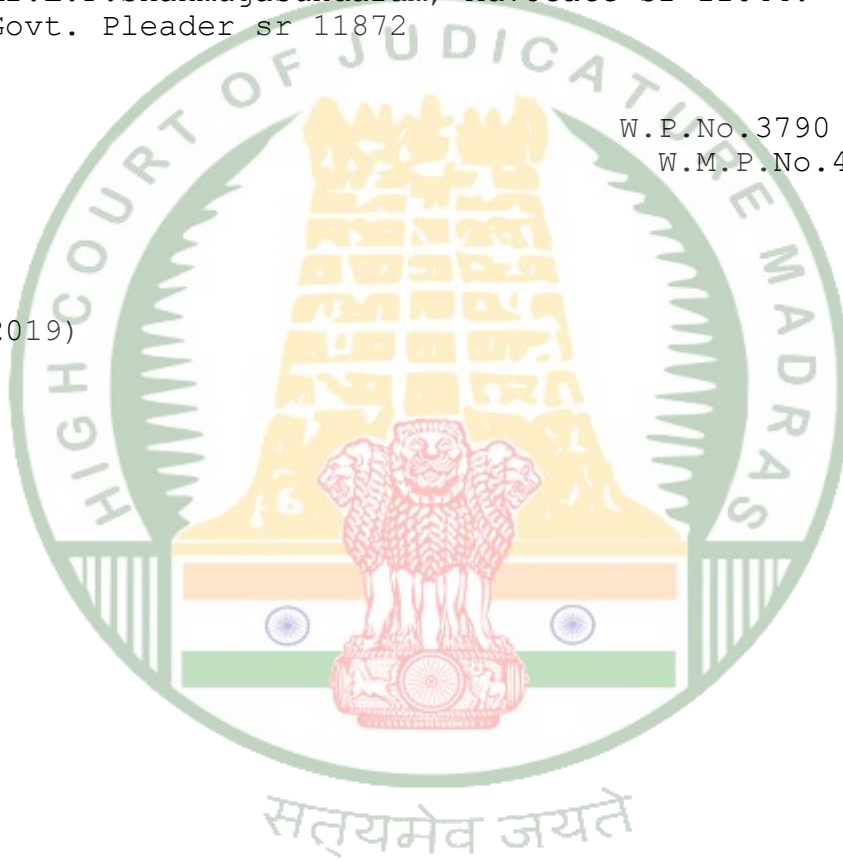
4. The Assistant Director of Handlooms and Textiles
Erode.

+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 11044.

+1 CC to Govt. Pleader sr 11872

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EV(CO)
SP(11/02/2019)



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