

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.02.2019

CORAM
THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.4440 of 2019 & W.M.P.Nos.5001 & 5003 of 2019
and
W.P.No.4455 of 2019 & W.M.P.Nos. 5024 & 5026 of 2019

W.P.No.4440 of 2019

1.V.P.Ganesan
2.G.Adhiramalingam
3.E.Usha Elumalai

...Petitioners

Vs.

1.The North Zone Committee- Cooperative Society Election,
Rep. by its Chair Person / Secretary,
No.4/233, N.S.C.Bose Road,
6th Floor, Chennai - 600 001.

2.The Commissioner,
Tamil Nadu State Cooperative Election Commission,
No.273, Kamadhenu Supermarket,
Anna Salai, Chennai.

3.The Returning Officer,
G-999, Tambaram Co-operative Housing Society,
Tambaram, Chennai - 600 045.

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the first respondent to hear the objections of the writ petitioners in respect of society's election for the post of Director in the G-999, Tambaram Co-operative Housing Society in accordance with the Common Judgment of this Court dated 03.08.2018 in W.P.No.11490 of 2018.

W.P.No.4455 of 2019

1.V.Arumugam
2.E.Elumalai
3.Premalatha

...Petitioners

Vs.

1.The North Zone Committee- Cooperative Society Election,
Rep. by its Chair Person / Secretary,
No.4/233, N.S.C.Bose Road,
6th Floor, Chennai - 600 001.

2.The Commissioner,
Tamil Nadu State Cooperative Election Commission,
No.273, Kamadhenu Supermarket,
Anna Salai,
Chennai.

3.The Returning Officer,
MD-2178, Tambaram Co-operative Housing Society,
Tambaram, Chennai - 600 045. ...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the first respondent to hear the objections of the writ petitioners in respect of society's election for the post of Director in the MD-2178, Tambaram Co-operative Housing Society in accordance with the Common Judgment of this Court dated 03.08.2018 in W.P.No.11489 of 2018.

For Petitioner in
both W.Ps' : Mr.R.Mohana Raja

For Respondents in
both W.Ps' : Mr.L.P.Shanmugasundaram
Spl. Government Pleader for R1 & R3

Mr.M.S.Palaniswamy
Standing Counsel for R2

C O M M O N O R D E R

These Writ Petitions have been filed for issuance of Writ of Mandamus, directing the first respondent to hear the objections of the writ petitioners in respect of Society's election for the post of Directors in G-999 & MD-2178, Tambaram Co-operative Housing Society in accordance with the Common Judgment of this Court dated 03.08.2018 in W.P.Nos.11489 & 11490 of 2018.

2. According to the petitioners, they preferred a complaint on 24.04.2018 to the second respondent to take action against the Returning Officer / third respondent for not considering their nomination papers and for supporting the Ruling party, but, no action has been taken by the second respondent so far. Thereafter, one of the candidates out of 11 nomination, has preferred a Writ Petition before this Court in W.P.No.11490 of 2018. This Court, by an order dated 03.08.2018 appointed the Zonal Committee to look into the complaint as observed in paragraph Nos.143 and 150 of the order.

3. The petitioners have approached the second respondent time and again, but the said complaint has not been considered and taken note off. Hence, the petitioners are before this Court.

4. The learned Standing Counsel appearing for the second respondent would submit that this Court in W.P.No.11490 of 2018 at paragraph No.149, has observed that "the Committees shall within two weeks from the date of receipt of a certified copy of the order, publish a notice in a vernacular newspaper having circulation in the concerned zone notifying its constitution and inviting petitions of objection / complaint within the date and at the address specified in the notice". Pursuant to the said order, the Committee has also notified the same on 16.09.2018, inviting any objection from the aggrieved persons and the petitioners have not chosen to send the application before the Committee. Therefore, the petitioners cannot have any right to appear before the Committee and to make their objections by filing a fresh complaint at this juncture.

5. The learned Special Government Pleader appearing for the respondents 1 & 3 reiterating the stand taken by the second respondent would submit that the petitioners cannot have any right to seek or entitled to appear before the first respondent-Committee on the basis of their complaint to the Election Commissioner.

6. Heard the rival submission and perused the materials available on record.

7. By an order dated 03.08.2018 in W.P.No.11490 of 2018, this Court has observed as follows:-

" 149. The State shall provide infrastructure and secretarial facilities to the Committees as also space from where the Committees can function. The Committees shall within two weeks from the date of receipt of a certified copy of this order, publish a notice in a vernacular newspaper having circulation in the concerned zone notifying its constitution and inviting petitions of objection/complaint within the date and at the address specified in the notice.

150. It is clarified that only petitions of objections/complaints in respect of voters' list and nominations will be entertained, which have earlier been filed before the authorities and/or before this Court by initiation of writ proceedings and/or any other proceedings.

151. Disputes with regard to the conduct of elections, that is, polling, counting, etc., may be

raised within fifteen days from the date of publication of notice. In case, a dispute is referred to Registrar for constitution of an arbitral Tribunal, the same shall be decided by the arbitral Tribunal within three months from the date of reference by the Committees."

8. From the above observations, it is clear that the petitioners have not submitted their complaint by objection within a period of 15 days from date of issuing the notification by the first respondent Committee dated 16.09.2018. Therefore, this Court can come to the conclusion that the petitioners have no legal right to appear before the first respondent-Committee to seek their grievance individually on the basis of the complaint submitted to the Election Commissioner. But, however, it is an admitted fact that one Chellappan and Udayamani are appearing before the first respondent Committee for enquiry. Therefore, it is open to the aforesaid persons to file the supporting documents of the complaint preferred by the petitioners, if they are so advised. It is make it clear that the petitioners have already submitted a complaint before the Election Commissioner and in only those cases, they can file supporting documents through Chellappan and Udayamani and if any supporting documents filed, the same shall be considered by the first respondent-Committee in accordance with the provisions.

9. With the above observations, the Writ Petitions stand disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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2.The Commissioner,
Tamil Nadu State Cooperative Election Commission,
No.273, Kamadhenu Supermarket,
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3.The Returning Officer,
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Tambaram, Chennai - 600 045.

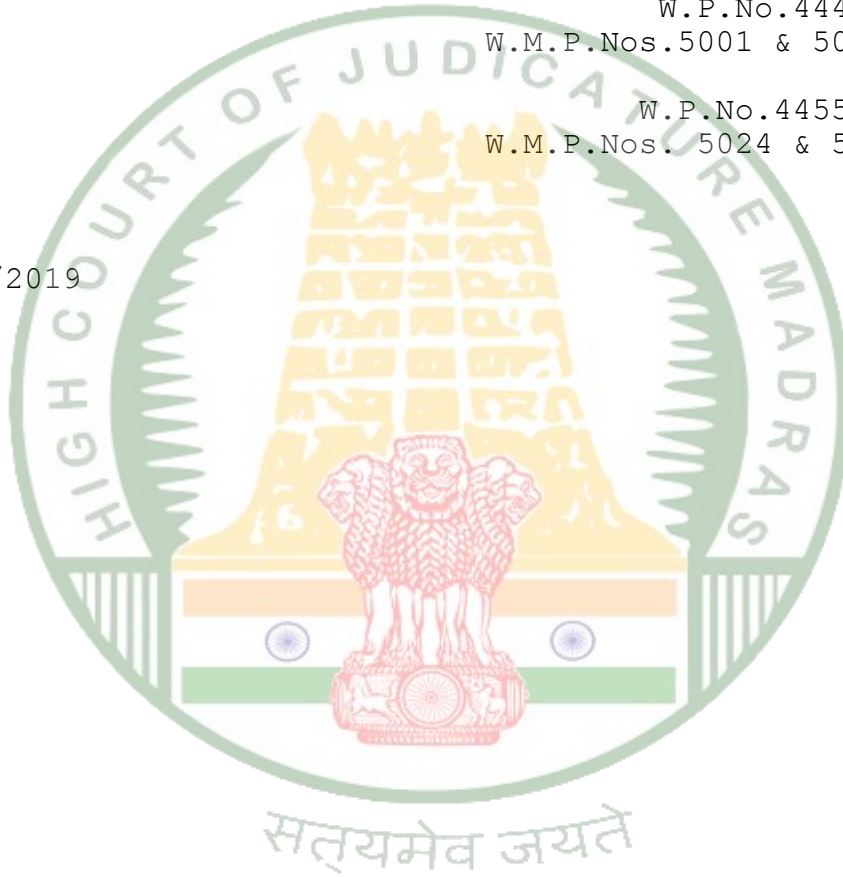
4.The Returning Officer,
MD-2178, Tambaram Co-operative Housing Society,
Tambaram, Chennai - 600 045.

+2ccs to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.17214&17215
+2ccs to Mr.R.Mohanaraja, Advocate, S.R.No.17714 & 17715
+1cc to the Government Pleader, S.R.No.17641

W.P.No.4440 of 2019 &
W.M.P.Nos.5001 & 5003 of 2019
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W.P.No.4455 of 2019 &
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VBA (CO)

rrs 21/03/2019



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