

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.20973 of 2018
& W.M.P.No.24623 of 2018

P.Madheswaran

...Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Salem Region, Salem.

2.The Deputy Registrar of Co-operative Societies,
Omalur Circle, Omalur.

3.The TANGEDCO Mettur Workshop Circle
and Thermal Power Station-II Employees
Co-operative Thrift and Credit Society Ltd.,
Represented by its Secretary,
No.544, Mettur Dam-636 401.

4.S-631, Mettur Electricity System
Public Servants Co-operative Society Ltd.,
Mettur Dam-636 401
Represented by its Secretary

5.The Superintendent Engineer,
Purchase and Administration,
Mettur Thermal Power Station-1,
Mettur-6.

..Respondents

(R5 impleaded as per Court order dated 26.09.2018
by VBDJ in Wmp.No.29405/18 in W.P.No.20973/2018)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus calling for the records on the file of the 1st respondent in Na.Ka.No.2976/2016 sa.Pa dated 22.05.2018 and on the file of the 2nd respondent and quash the said order and direct the 2nd respondent to register the amendment of the byelaws submitted by the 3rd respondent.

For petitioner : Mr.R.Jeyaram

For Respondents : Ms.T.Girija,

Govt.Advocate for R1 & R2

: Mr.L.P.shanmugasundaram

Spl Government Pleader for R3

: Mr.K.Selvaraj for R4

: Mr.P.R.Dhilip Kumar, St.c for R5

ORDER

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

2. The petitioner herein is an ex-president in the TANGEDCO Mettur Workshop Circle and Thermal Power Station-II Employees Co-operative Thrift and Credit Society Limited (herein after called as Society). While he was the President of the Society, he sought for amendment of the bye-laws of the Society as per Section 11 of the Co-operative Societies Act. The said proposal was not accepted by the 2nd respondent/Deputy Registrar of Co-operative Society. Aggrieved by that the petitioner herein as the President of the Society preferred an appeal before the Joint Registrar under Section 152 of the Co-operative Societies Act, the same was also rejected by the 1st respondent. Meanwhile, the tenure of the petitioner as a President of the Society comes to an end and new Board has been constituted. The petitioner herein aggrieved by the order passed by the 1st respondent/ Joint Registrar of Co-operative Societies, under Section 152 of the Act has preferred this writ petition questioning the vires of the order of the 1st respondent rejecting the proposal of the bye-laws of the Society.

3. The learned counsel appearing for the 4th respondent would take a preliminary objection regarding the locus standi of the petitioner herein, who seeks amendment of the 3rd respondent Society bye-laws which was considered by the authorities and rejected. Further, the learned counsel would also submit that the petitioner is an individual and the amendment of bye-laws moved by the Society and not accepted by the respondents 1 and 2. The present elected body has decided not to proceed further. While so, the petitioner herein as an individual has no locus to seek amendment of the Society bye-laws.

4. The learned counsel appearing for the respondents 1 and 2 would submit that the proposed amendment of the bye-laws were against the spirit of the Society and contrary to Section 9(1)(d) of the Co-operative Societies Act. The elected body has accepted the findings and they have not proceeded further with the proposed amendment. While so, the petitioner herein cannot try to change the character of the Society through Writ Petition.

5. Considered the submissions of the learned counsels and perused the averments made in the petition along with documents.

6. The contention of the petitioner is that the General Body of the Society in its meeting dated 19.01.2015 resolved to amend its bye-laws of the Society by extending the area of operation and qualification of member. The said proposal has been

erroneously rejected by the 2nd respondent and the appeal was also confirmed without following the mandatory provisions of Sections 11(3) and Rule 9(5) of the Co-operative Societies Act and Rules. Even though, the presently elected bodies are not interested in pursuing the matter, as member of the Society he is entitled to maintain the writ petition.

7. The proposed amendment has been considered by the authorities and they have rejected. The statute provided appeal remedy under Section 152 has also been exhausted. Now the majority of the members have reconciled the fact and decided to accept the order. The petitioner herein who was the Ex-President of the Society and one of the members may have a different view, but, he cannot independently filed any petition when majority of the members have reconciled to the order passed by the 1st respondent . More so, the right to invoke Article 226 of the Indian Constitution is totally not available to him seeking relief against the wish of the majority members.

8. In the said circumstances, this Court finds no merit in this writ petition and therefore, this writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Joint Registrar of Co-operative Societies,
Salem Region, Salem.
- 2.The Deputy Registrar of Co-operative Societies,
Omalur Circle, Omalur.
3. The Superintendent Engineer,
Purchase and Administration,
Mettur Thermal Power Station-1, Mettur-6.

+1 cc to M/s.L.P.Shanmugasundaram,Advocate Sr.No. 65259

+1 cc to M/s.K.Selvaraj,Advocate Sr.No. 65290

+2 cc to M/s.C.R.Jeyaram,Advocate Sr.No. 65399

04/10/2019

+1cc to The Government Pleader, SR.No.65466

AKM/05.09.19/3P-8C /

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