

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.06.2019
CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.15261 of 2019
and WMP.Nos.15254 & 15255 of 2019

- 1.M.N.Rajaram,
- 2.J.Mohamed Iqbal,
- 3.C.Chinnasamy
- 4.K.Mani,
- 5.P.Muthusamy,
- 6.C.Murugesan,
- 7.M.Jagadeesan,
- 8.K.Sekar,
- 9.M.Selvi,
- 10.M.Manjula,
- 11.G.Subbulakshmi.

...Petitioners

Versus

- 1.The Secretary,
Committee on Co-operative Elections Cases,
East Central Zone,
Trichy Central Co-operative Building,
Trichy-1.
- 2.The Commissioner,
Tamilnadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Chennai-600 018.
- 3.The District Election Officer and
Deputy Registrar of Co-operative Societies,
Perambalur Circle, सत्यमेव जयते
Perambalur District.
- 4.The Election Officer,
R 1144, Perambalur Primary Agricultural
Co-operative Credit Society,
Perambalur & Post,
Perambalur District.
- 5.The Secretary,
R 1144, Perambalur Primary Agricultural
Co-operative Credit Society,
Perambalur & Post,
Perambalur District.

6. S.Dhanaraj.

...Respondents

PRAYER:Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for records pertaining to the orders of the first respondent committee in Petition No.167 of 2018 dated 04.05.2019 and quash the same.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.M.S.Palanisamy for R2

Mr.D.Vekatachalam
Additional Government Pleader
for RR3 to 5.

O R D E R

The petitioners are elected members of the Perambalur Primary Agricultural Co-operative Credit Society, and they were declared as Board of Directors by the Election Officer on 07.08.2018. Immediately thereafter, one S.Dhanaraj, made a representation dt.01.10.2018 to the Committee constituted by the Division Bench of this Court by an order dated 03.08.2018 to entertain the complaint dated 01.10.2018. The gist of the complaint is that, on 30.04.2018, when the said S.Dhanaraj/6th respondent went to the Perambalur Co-operative Credit Society for filing his nomination for contesting in the election, the Election Officer came there and received nominations from one M.N.Rajaram/1st petitioner, who gave a bunch of nominations to the officer. When S.Dhanaraj/6th respondent wanted to file his nomination, the election officer refused to receive the same and went away. Thereafter he did not turn back to receive the nomination till 6.30 p.m., on the same day. Hence, on 03.05.2018, the said Dhanaraj gave a petition to the District Election Officer expressing his grievances and prayed to set aside the election processes. Since, no action was taken by the Election Officer, he gave a petition to the Election Committee constituted as per the order the order of the Division Bench of this Court. The committee after going through the entire materials viz., voters list, nomination papers etc., and came to a conclusion that the Election Officer did not adhere to the procedure properly and directed the Election Commission to issue necessary direction to the District Election Officer and the Society to conduct a fresh election. Aggrieved by the said order, the petitioners have filed the present writ petition.

2. Heard Mr.S.Kamadevan, learned counsel for the petitioners and Mr.M.S.Palanisamy, learned counsel for the 2nd respondent and Mr.D.Venkatachalam, learned Additional Government Pleader for Respondents 3, 4 and 5.

3. Mr.S.Kamadevan, learned counsel for the petitioners submitted that though the election process was started as early as on 30.04.2018 and the petitioners presented their nominations and after scrutiny, the final nominations were announced on 03.05.2018, the further process of results was not announced due to the pendency of writ petitions before this Court. Thereafter, the said writ petitions were disposed of by this Court on 03.08.2018, permitting to announce the results and also permitted to constitute to form a zonal committees to look into the election grievances. Thereafter, on 07.08.2018, final declaration of the eleven elected Board of Directors were announced and also a notification dated 06.08.2018 was issued by the election officer for election of office bearers.

4. The learned counsel for the petitioners further submitted that the 6th respondent has made a complaint before the committee only on 01.10.2018, but the judgment was made on 03.08.2018. Therefore, the petition filed by the 6th respondent before the committee is non-est in the eye of law, since the Division Bench order of this Court dated 03.08.2018 makes it clear that "only objections and/or complaints with regard to voters' lists and nominations already made by approaching this Court or alternatively by approaching this Court or alternatively by approaching the Election Commission and/or Registrar and/or any other appropriate authority shall be entertained and no new complainants and/or objectors who never raised any objection till the date of this judgment shall be entertained by the committee." The learned counsel for the petitioners further submitted that after conclusion of the election process, the only remedy to raise all the discrepancies in the election process before the committee constituted by the Division Bench of this Court is illegal as the committee has no power or authority to receive any evidence and examine any person or witness to substantiate or deny the allegations made in the complaint. Therefore, he prays to set aside the impugned order passed by the committee and allow the writ petition.

5. This Court by an order dated 04.06.2019, directed the learned Additional Government Pleader to direct the election officer to produce the nomination papers filed by the petitioners and few others before this Court on

07.06.2019. Accordingly, the Election Officer had produced the nomination papers before this Court today.

6.This Court perused the entire nomination papers filed by the candidates in Form 18. On perusal of the same, it is seen that all the nomination papers were received on 30.04.2018 by the Election Officer and it appears all the nomination papers were filed by 1 or 2 persons and the nomination papers were accepted on 02.05.2018. This Court also perused the nominations which were withdrawn in a printed format of Form 19, wherein the candidates have signed their signature, but the form was filled up by some other persons. However, the committee has observed that two persons who have contested in the reserved category have not enclosed their proof for community viz., community certificate. Therefore, the committee has arrived at a conclusion that the Election Officer has acted on a bias manner for which fresh election is necessary.

7.Admittedly Co-operative Societies were established to promote the co-operative movement to uplift the innocent persons. If the election process of the members of such Co-operative Societies are conducted in a bias manners then the whole objective of the Co-operative Society would be defeated. Taking note of all the above and on perusal of the nomination papers, the committee has rightly come to a conclusion and directed to conduct a fresh election, which does not require any interference.

8.The Division Bench of this Court in its order dated 03.08.2018, in paragraph No.138 has observed as follows:

"138.The fact that in 94% of the cooperative societies elections were uncontested and 2514 petitions of objection/complaint were received by the Election Commission, 1525 between 1.3.2018 and 9.5.2018 and 9989 between 9.5.2018 and 31.5.2018, in respect of 1,324 cooperative societies, evinces the need for interference of this Court in exercise of its extraordinary power of judicial review under Article 226 of the Constitution of India. In case of 620 cooperative societies, elections have been cancelled at least in part and others have been rejected. The rejections numbering 426 are in question in these writ petitions. This Court is of the view that the overwhelming percentage of uncontested elections, as a consequent of rejection of nominations on an unprecedented scale, requires judicial scrutiny."

The present case also falls under the same category, where

the petitioners were elected as un-opposed as Board of Directors by the Election Committee, which definitely requires judicial scrutiny.

9.The main contention of the learned counsel for the petitioners is that the complaint filed is barred by limitation. The fact remains that the nominations were made on 30.04.2018, however the results were announced only after the judgment of the Division Bench of this Court on 07.08.2018. Only after the judgment was pronounced, the 6th respondent came to know about the election result. The fact remains that the 6th respondent had been interested to contest in the Co-operative Society Election. His nomination was rejected on earlier occasion and he has also filed his objection before the Election Officer. However, the Election Officer had not entertained his objection. After coming to know about the order of the Division Bench of this Court, the petitioner had filed the written complaint before the committee. Though the representation of the petitioner is belated, that itself does not invalid the complaint filed by the petitioner and this Court also perused the nomination papers and noted that the same were filled by different persons and signed by the candidates and it appears that the petitioners were elected as un-opposed. When some of the persons really wanted to contest in the election, without giving them an opportunity, declaring the petitioners as un-opposed is against democratic principles. Therefore, the argument that the petition filed before the committee is barred by limitation is liable to be rejected.

10.Accordingly, this Writ Petition is dismissed. No costs. Consequently, connection miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Committee on Co-operative Elections Cases,
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2.The Commissioner,
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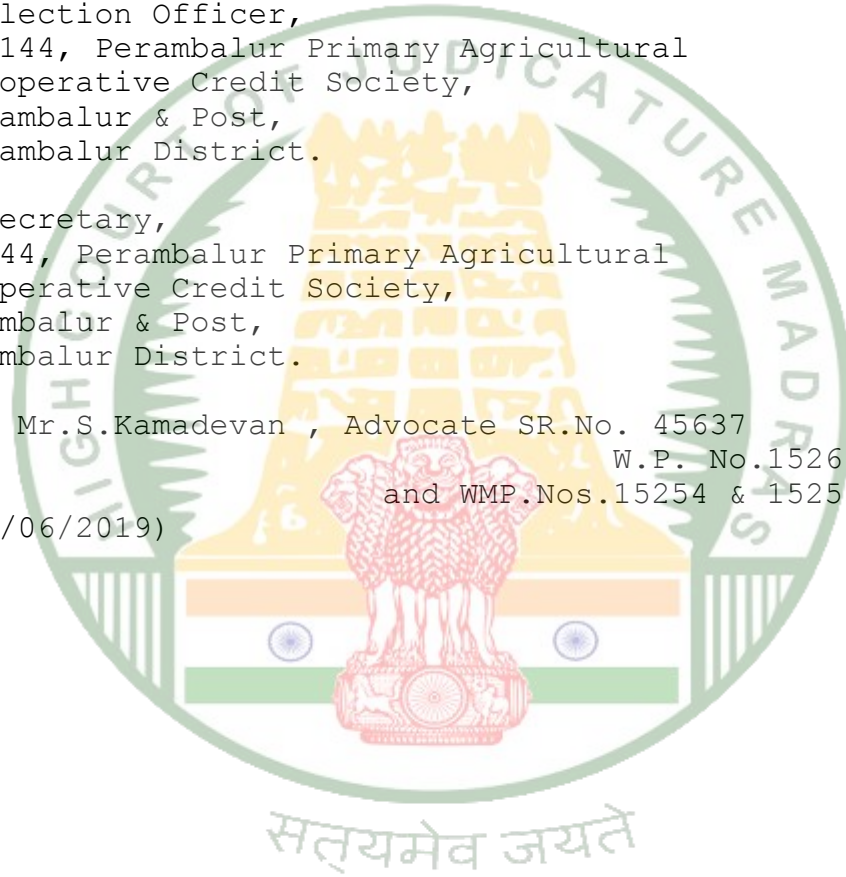
5.The Secretary,
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+1cc to Mr.S.Kamadevan , Advocate SR.No. 45637

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A.SK(11/06/2019)



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