

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.15536 of 2019

and

W.M.P.Nos.15436, 15439 and 15442 of 2019

1.S.Arun

2.L.Venkatakrisnan

3.M.Karthikeyan

4.V.Rajasekar

5.A.Vigneshvar

..Petitioners

vs

1.The Registrar of Co-operative Society (Housing),
48, Ritherdon Road,
Vepery, Chennai-600 007.

2.Deputy Registrar of Co-operative Society (Housing),
Chennai Division,
Office of the Deputy Registrar of Co-operative Society (Housing),
Chennai-600 017.

3.The Madras Secretariat Co-operative Building Society Ltd (X-370)
144, Third Street, Secretariat Colony,
Kellys, Chennai-600 010.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, to direct the first respondent to take on

file the Appeal dated 11.05.2019 filed by the Appellants challenging the proceedings of the second respondent dated 08.05.2019 bearing reference No. Naka.No.497/2019/k purported to be under Section 89(1) of the Tamil Nadu Co-operative Societies Act, 1983 dissolving the Board of the third respondent Society and appointing Administrator to manage the affairs of the third respondent Society and permit the petitioners to exercise their power as the Directors of the Board as per the notification dated 03.04.2018, 06.08.2018 and 29.12.2018 notified by the Election officer of the first and second respondent declaring them as elected office bearers of the third respondent Society.

For Petitioners : M/s.Row and Reddy

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

By consent, the main writ Petition itself is taken up for final disposal at the admission stage.

2. The case of the petitioners are as follows:-

(a) According to the petitioners, the third respondent/Co-operative Society was formed in the year 1957 and the office bearers are elected once in five years. The election is conducted by the Election Commission of the Co-operative Department of Tamil Nadu Government. On 03.04.2018 ten office bearers including the petitioners were elected and their tenure is for five years i.e from 2018 to 2023. The petitioners were declared, elected against the

vacancy earmarked under General quota. Therefore, they are entitled to hold the office till 02.04.2023. Further, among the elected Directors, the first and second petitioners were elected as President and Vice-President by the Election Officer Vide Proceedings dated 06.08.2018 and based on that, the Board was functioning smoothly.

(b) Further, On 08.08.2018 one of the Director of the board, namely, V.Sivakumar elected under quota earmarked for members belonging to SC/ST had died. Therefore, the vacancy was occurred. On 15.12.2018, Smt.R.G.Sabitha elected under Women Category resigned and therefore, another vacancy arose. This was duly communicated to the second respondent vide letters dated 12.01.2019 and 21.01.2019 along with the copy of Board Resolution. Even, thereafter no steps have been taken by the Department to conduct the election for the resigned Directorship post. As per By Law 18, those resignations would take effect only after the same being placed before the Board and accepted by the Committee of the Management. The required quorum is 6. If the election to the two vacancies caused on account of the death of V.Sivakumar and the resignation of R.G.Sabitha had been held, then, there would have been required quorum to accept the resignation of the four directors. Instead of filling up the aforesaid vacancies, the second respondent/ Deputy Registrar by an order dated 08.05.2019 dissolved the Board

and appointed Sub Registrar and the Administrator of the Society, which is totally unfair and unjust. Due to the arbitrary action of the second respondent, the petitioners, who were duly elected through democratic process have been prevented from discharging the duties.

(c) Aggrieved against the action the second respondent, the petitioners have filed an appeal on 11.05.2019 before the first respondent along with the stay application. In spite of receipt of appeal, till date, the 1st Respondent has not taken any steps to hear the same, due to which the present Writ Petition is filed.

3. Learned counsel for the petitioners would submit that it would suffice for this Court to issue a direction to the appellate authority, namely, first respondent to dispose of the appeal along with the stay application within a time to be prescribed by this Court.

4. Learned Special Government Pleader for the respondents would concede the request made by the learned counsel for the petitioners.

5. In view of the above, this Court is inclined to issue a direction to the 1st Respondent to dispose of the appeal dated 11.05.2019 preferred by the

petitioners within a period of four weeks from the date of a receipt of copy of this order and the liberty is granted to the petitioners to insist the Appellate Authority, viz., 1st Respondent on the stay application.

In fine, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

07.06.2019

ssd / tta

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

(Note: Issue order copy on 10.06.2019)

To

- 1.The Transport Commissioner,
Chepauk,
Chennai-600 005.
- 2.The Regional Transport Officer,
O/o. Regional Transport Officer,
Paranur, Chengalpattu,
Kancheepuram District.
- 3.The Branch Manager,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Kallakurichi Depot-I,
Villupuram District.

M.DHANDAPANI.J.,
ssd/tta



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