

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 17.09.2019

Pronounced on: 20.09.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.17299 of 2019
& W.M.P.Nos.16828 & 16830 of 2019

1. T.M.P.Ananthasayanan,
S/o.T.M.Palanisamy,
No.64, Daramchand Nagar,
Tindivanam.
2. T.Moorthy,
S/o.Mr.Dhandavarayan,
No.01, Marakkanam Road,
Anna Nagar, Tindivanam.
3. N.Elumalai,
S/o.Naranayasamy,
No.7, Vivekananda Lane,
Indira Nagar, Gorimedu,
Pandi.

... Petitioners

/versus/

1. The Additional Registrar of Trade Unions,
Office of the Deputy Commissioner,
& Joint Commissioner of Labour,
Old Corporation Building, Officers Lane, Near Raja Theatre,
Vellore - 632 001.
2. Tamil Nadu State Primary Co-operative
Bank All Employees Union,
Rep. by its General Secretary,
No.12, Krishna Nagar, Tagbia Illam, Ranganathan Salai,
Villupuram, Villupuram District.
3. Mr.K.Anbarasu,
State Election Officer,
Tamil Nadu State Primary Co-operative,
Bank All Employees Union,
Servaikaranpatti, Kujiliamparai Taluk,
Dindukkal District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondents to take appropriate steps to conduct the Block Level and District Level Election in Villupuram District for the Tamil Nadu State Primary Co-operative Bank All Employees Union, under the supervision of the 1st respondent and then conducting the state level election of the Tamil Nadu State Primary Co-operative Bank All Employees Union by following the provisions of the bylaws through secret ballot, and under the supervision of the 1st respondent and pass orders.

For Petitioner : Mr.D.Muthu Kumar,
for M/s.Paul and Paul

For R1 : Mr.N.Inbanathan,
Additional Government Pleader

For R2 : Mr.C.Prakasam

For R3 : No appearance

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioners are members of Tamil Nadu State Primary Co-operative Bank All Employees Union as per bylaws, the administration of the Union will be lead by the elected Executive Committee and for the administrative purpose, the administrative system of the Union will have three tires viz., Block Level, District Level and State Level.

3. In the Block Level, the members of the Union have to elect five block level executives. All the Block Level Executives in the District will elect 7 District Executives. The elected District Level Executives will elect 7 State Executives. All the block level Executives will be the part of District Level Executive Committee. All the District Level Executives will be part of State Level Executive Committee. The tenure of the elected representatives is for a period of three years. The Election for the Union Office bearers was due in the year 2019. The Election for the block Level Executive was announced by the 2nd respondent but for the reason best known except Villupuram District, for all other Districts Block Level election was conducted, since there was not Block Level Executive there was not one to become District Level Executives from Villupuram. Naturally for the State Level Election fixed

on 22.06.2019 they were no representatives from the Villupuram District. This has been systemically and wontedly been done by the 2nd respondent by not conducting block level election. So that, the members of the Villupuram District are prevented from contesting for State Level Election. The undemocratic attitude of the 2nd respondent was brought to the notice of the 1st respondent who is authorized under the Trade Union Act to supervise the activities of the Union. Since, the 1st respondent has not acted upon the representation, the 2nd respondent got embolden to proceed with the election process, without conducting election at block level within the Villupuram District. Hence, the petitioner has approached this Court seeking the respondents to take appropriate steps to conduct Block level and District Level Election at Villupuram District for the Tamil Nadu State Primary Co-operative Bank All Employees Union under the supervision of the 1st respondent and then conducted the State Level Election.

4. In the counter, the 2nd respondent has submitted that in the Villupuram District majority of the members of the 2nd respondent Union have not paid their subscription. To conduct election for Block Level, there should be considerable number of members. In Villupuram District, most of the members did not renew their subscription. They did not shown any interest to pay subscription and contest the election. The 2nd respondent has completed the block level and District Level election on 17.03.2019 in the rest of the Districts all over Tamil Nadu.

5. The Learned Counsel appearing for the petitioner would submit that, on 04.02.2019, the 2nd respondent informed all the members, notifying block level election throughout the state in two phases. For Villupuram District, block Level Election was scheduled to be held on 17.03.2019 but on that day, no election was conducted for block level executive. Therefore, the contention of the 2nd respondent that, most of the members have not renewed the subscription and there is no considerable number of members to conduct election is unsustainable and against the bylaws of the Society.

6. In the re-joinder filed by the petitioner, the membership of each District has been extracted and it is stated that in Villupuram District, the Union has 867 members which is far above the membership of many other Districts. Therefore, the Election Officers appointed by the 2nd respondent to conduct block level election for Villupuram District on 17.03.2019, as

per the Union bylaws has failed to do so without any valid reasons.

7. In response to the said submission, the Learned Counsel appearing for the 2nd respondent would submit that, since the members of the Villupuram District did not cooperative for Election, the Returning Officer was not in a position to conduct election. However, there is no material placed before this Court to indicate that after notifying the date of election as 17.03.2019 attempts were made by the 2nd respondent to conduct Election at Block Level in Villupuram District which has 867 members. From the bylaws of the Union, unless and until a member gets elected as Block Level Executive, he cannot become a District Level Executive or State Level Executive. While so, for the reason best known, the 2nd respondent has not conducted election for Block Level and District Level in the Villupuram District. The reason stated in the counter affidavit are not satisfactory or justifiable. Normally, failure to conduct election for one constituency or District may not have much impact to proceed the election towards higher tier. But in this case, the omission to conduct election for the Villupuram District at the Block Level has let to total blackout of representation of members of Villupuram District in the 2nd respondent Union.

8. It is pointed out in the counter that, if the petitioner was really aggrieved, by omission of Villupuram District in the election process, they should have approached the Court at the earliest point of time immediately after the election for Block Level was scheduled. Belated approach to this Court is only to stale the smooth functioning of the State Level Office Bearers. This contention could not be countenance for the reason that the petitioner immediately after the schemy elimination of Villupuram District members in the process of election had made representation to the 1st respondent who is the authority competent to exercise supervision over the 2nd respondent Union. The representation given to the 1st respondent to postpone the state Level Election did not fructify. Hence, as a last resort had approached this Court by way of Writ Petition.

9. The deliberate omission to conduct block level election for Villupuram District in spite of adequate membership renders the election for further hierarchy farce and void. Therefore, this Court has no hesitation in allowing the Writ Petition. At the time of admission, this Court, on 20.06.2019 has specifically ordered that any election will be subject to

outcome of Writ Petition. Now, this Court for the reasons stated above hold that the Writ Petition deserves to be allowed and therefore, the State Level Election has to be conducted only after completion of Block Level and District Level Election for Villupuram District.

10. Accordingly, the Writ Petition is Allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

bsm

To,

1. The Additional Registrar of Trade Unions,
Office of the Deputy Commissioner
& Joint Commissioner of Labour,
Old Corporation Building, Officers Lane,
Near Raja Theatre,
Vellore - 632 001.

- The General Secretary,
2. Tamil Nadu State Primary
Co-operative Bank All Employees Union,
No.12, Krishna Nagar, Tagbia Illam, Ranganathan Salai,
Villupuram, Villupuram District.

3. The State Election Officer,
Tamil Nadu State Primary Co-operative,
Bank All Employees Union,
Servaikaranpatti, Kujiliamparai Taluk,
Dindukkal District.

+2 cc to Mr.C.Prakasam Advocate sr80245 & 81416
+1 cc to M/s.Paul & Paul vide sr81340
+1 cc to Government Pleader sr81925

Pre-delivery order in
Writ Petition No.17299 of 2019

skv(co)
aa30/10/2019