



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.22160 of 2019
& W.M.P.No.21435 of 2019

A.Palaniappan,
S/o.Mr.Arumugam,
Thalaiyur,
Karuppu Reddiyar Post,
Mettur Dam,
Salem District.

... Petitioner

/verus/

1. The Tamil Nadu State Co-operative Societies Election Commission,
Rep. by its Secretary,
No.273, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.
2. The Registrar,
Co-operative Societies,
Nandanam, Chennai - 600 035.
3. The District Election Officer/Joint Registrar,
Co-operative Societies,
Salem Region, Salem District.
4. The K.K.No.238, PN Patty-Veerakkal Pudur,
Primary Agricultural Co-operative Credit Society (PACCS),
Rep. by its Secretary,
P.N.Patty-Raman Nagar,
Mettur Taluk,
Salem District.
5. M.Vijayaraghavan,
President, K.K.No.238, PN Patty-Veerakkal Pudur,
Primary Agricultural Co-operative Credit Society, (PACCS),
No.9-1/226A, Indra Nagar,
Puduchampalli Ram Nagar,
Mettur Dam, Salem District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the records of the 2nd respondent in his proceedings in Na.Ka.No.20882/2019SaPa2, dated 14.05.2019 and quash the same.

For Petitioner : Mr.A.Sundaravadhanan
For R2 to R4 : Mr.L.P.Shanmugasundaram
Special Government Pleader
For R1 : Mr.Palaniswamy
For R5 : Mr.S.Kamadevan

O R D E R

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

2. The short point involved in this case is that the 5th respondent a defaulter to the Canara Bank to a tune of Rs.1,36,03,609.31. Being a defaulter to the Nationalized Bank, the petitioner contention is that the 5th respondent is not qualified to hold the post in the Co-operative Society and therefore, filed Writ Petition in W.P.No.6930 of 2019, to issue Mandamus to take appropriate action against the 5th respondent under Section 34 (6) of the Tamil Nadu Co-operative Societies Act.

3. This Court in the said W.P.No.6930 of 2019, without going into the merits of the case, directed the 2nd respondent to consider the representation of the petitioner, dated 13.02.2019 on merits in accordance with law, after providing opportunities to all necessary parties and pass orders within a period of 12 weeks, from the date of receipt of a copy of this order. Accordingly, the Registrar of Co-operative Societies, has passed an order on 14.05.2019. He rejected the request of the petitioner herein to disqualify the 5th respondent. The said order dated 14.05.2019, is impugned in this Writ Petition.

4. The disqualification for members of Board in Co-operative Societies is enumerated in Section 34 of the Act.

Wherein, Sub-Section 1(b)(i) disqualifies a person who is in default to such registered Society (which he context) or any other registered society, in respect of any loan or advance taken by him or dues under credit purchases made by him by a period exceeding three months or is a representative of a registered society which is default to the financing bank or to any other registered society, in respect of any sum due by the registered society for a continuous period of one year.

5. Since, the default committed by the 5th respondent is not with the society, in which he is a member or any other registered society but only a Nationalized Bank, the 2nd respondent has rejected the representation of the petitioner stating that, the 5th respondent cannot be disqualified since

Section 34 does not apply to him.

6. The learned Counsel appearing for the petitioner would contend that when a registered society default to a financial Institution, then all members of the registered society are disqualified to context Election. While so, when a member is directly defaulted to the Financial Institution, he should be held disqualified. The respondents ought to have been given liberal interpretation to Section 34 (1)(b)(i) and ought to have disqualified the 5th respondent. A pedantic interpretation of Section 34(1)(b) has let to permitting a defaulter to the Nationalized Bank to a tune of Rs.1,36,06,609.31, to hold the post of President to manage and administer the Society.

7. The contention of the Learned Counsel appearing for the petitioner though may sound appropriate, when disqualification is prescribed under the Statue, the golden Rule of interpretation has to be applied. A plain reading of Section 34 (1)(b) without any ambiguity disqualifies only a defaulter to a registered society, which is defined under the same statute. Only when a Registered Society defaults to a Financial Institution, the members of the default Society gets disqualified. Consciously the framers of the statute has restricted the disqualification of the individual only if he commits defaults to a Registered Society. So, as on date, the statute does not prohibits the petitioner herein to hold the Presidentship of the Society. though he is a defaulter to Canara Bank Hence, this Court finds no illegality in the order passed by the Registrar of Co-operative Societies.

8. Before concluding, this Court is of the opinion that the State has to re-visit Section 34(1)(b)(i) and Section 34(1)(b)(ii), which should be synchronise with each other. A defaulter to a Registered Society and a defaulter to any Financial Institute either Nationalized Bank or Scheduled Bank should be treated at par and the said moral-turpitude should disqualify him to hold the post in the Co-operative Societies, where huge finance is involved.

9. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Secretary,
The Tamil Nadu State Co-operative Societies
Election Commission,
No.273, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.
2. The Registrar,
Co-operative Societies,
Nandanam, Chennai - 600 035.
3. The District Election Officer/Joint Registrar,
Co-operative Societies,
Salem Region, Salem District.
4. The Secretary,
K.K.No.238, PN Patty-Veerakkal Pudur,
Primary Agricultural Co-operative Credit Society, (PACCS),
No.9-1/226A, Indra Nagar,
Puduchampalli Ram Nagar,
Mettur Dam, Salem District.

+1cc to Mr.S.Kamadevan, Advocate, S.R.No. 69497

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No. 69833

+1cc to the Special Government Pleader(Co.Op), S.R.No. 70192

W.P.No.22160 of 2019

BR(CO)
GN(04/10/2019)

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