



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:25.07.2019

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21965 of 2019
and WMP.No.21201 of 2019

V.Rukmani,
W/o.Venugopal.

... Petitioner

Vs.

1.The Tamilnadu State Co-operative
Election Commission,
Rep. by its Commissioner,
Kamadenu Super Market I Floor,
No.273, Anna Salai,
Chennai 600 018.

2.K.Paramasivam,
Deputy Registrar,
District Election Officer,
Attur,
Salem District.

3.Su.Shanmugam,
Co-operative Sub-Registrar/Field Officer,
Thalaivasal Block,
Salem District,
as Electoral Officer,
S-1399, Pungavadi Pudur Primary
Agricultural Co-operative Society Ltd.

4.The Special Officer,
S-1399, Pungavadi Pudur Primary
Agricultural Co-operative Society Ltd.,
Attur Taluk,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the 3rd respondent from conducting the election of board of directors to the co-operative society namely S-1399 Pungavadi Pudur Primary Agricultural Co-operative society Ltd., situated at Pungavadi Attur Taluk, Salem District and consequently to direct the 3rd respondent to include the petitioner's nomination dated 15.07.2019 in the list of valid nominations and to conduct the election for the Board of Directors of 4th respondent society namely S-1399 Pungavadi Pudur



Primary Agricultural Co-operative Society Ltd., in free and fair manner.

For Petitioner : M.Rajendran

For Respondents: Mr.M.S.Palanisamy for R1.

Mrs.T.Girjija
Government Advocate for RR2 &3.

Mr.L.P.Shanmuga Sundaram,
Special Government Pleader for R4.

O R D E R

This writ petition has been filed seeking issuance of Mandamus, forbearing the 3rd respondent from conducting the election of board of directors to the co-operative society namely S-1399 Pungavadi Pudur Primary Agricultural Co-operative society Ltd., situated at Pungavadi Attur Taluk, Salem District and consequently direct the 3rd respondent to include the petitioner's nomination dated 15.07.2019 in the list of valid nominations and to conduct the election for the Board of Directors of 4th respondent society namely S-1399 Pungavadi Pudur Primary Agricultural Co-operative Society Ltd., in free and fair manner.

2.The petitioner is a permanent member of the 4th respondent society viz.,S.1399, Pungavadi Pudur Primary Agricultural Co-operative Society Ltd., situated at Pungavadi Attur Taluk, Salem District and the petitioner is eligible voter of the 4th respondent Society. After expiry of 5 years tenure in the month of April 2018, the 1st respondent decided to conduct election to elect the board of directors for all co-operative societies in the State of Tamil Nadu. However, due to various irregularities, election was not conducted and a petition in W.P.No.8149 of 2018 came to be filed before this Court. This Court by an order dated 03.08.2018 in a batch of writ petitions, has canceled the election process and appointed a retired judge to enquire the complaint with respect to the irregularities in the election. Insofar as the S-1399, Pungavadi Pudur Primary Agricultural Co-operative Society Ltd., is concerned this Court by an order dated 07.03.2019, directed the respondent to conduct the election by following all procedures as contemplated by the Act. Therefore, the District Election Officer, the 2nd respondent herein has published the election notification on 01.07.2019 and thereby appointed one S.Shanmugam, Co-operative Sub-Registrar/Field Officer as Electoral Officer to conduct the election for the above said Society. The petitioner filed nomination on 15.07.2017, to contest the post of Director of the society and the same was received by the 3rd respondent with due acknowledgment. According to the petitioner, 23 nominations were



received on the day of his filing the nomination. However, on 16.07.2019, a final list was published in the notice board of the Society, wherein the petitioner's name was not published but 11 other persons name were published in which 8 persons were dead and the Electoral Officer, 3rd respondent herein declared that 11 persons nominations are valid and a swearing ceremony to be conducted on 27.07.2019, which is illegal and also against the order of this Court dated 03.08.2018 in a batch of cases. Though, the petitioner has made several representations, the respondents have not considered the same. Hence, the petitioner has filed the present petition with the aforesaid prayer.

3. Heard both sides and perused the materials placed on record.

4. Mr. M. S. Planiswamy, learned counsel for the first respondent relied upon the judgments of the Hon'ble Supreme Court in the case of NP Ponnusamy Vs. Returning Officer, Namakkal reported in AIR 1952 SC 64, wherein it is held that the term 'election' has been interpreted and held that rejection or acceptance of nomination is included in the term 'election'. He also relied upon the judgment in the case of Nanhoo Mal Vs. Hira Mal reported in AIR 1976 SC 2140, wherein it has been held that the election to the office of the President could be challenged only according to the procedure prescribed by the Municipalities Act i.e., by means of an election petition presented in accordant with the provisions of that Act and in no other way. The other decision relied upon by the learned counsel for the first respondent in the case of S. T. Muthusamy Vs. Natarajan reported in [(1988) 1 SCC 572], wherein it is held that the Court in exercise of its discretion should always be declined to invoke writ jurisdiction in an election dispute, if an alternative remedy of an election petition is available. The learned counsel further relied upon a decision in the case of Manda Jaganath V. K. S. Rathnam reported in (2004) 7 SCC 492, wherein the Hon'ble Supreme Court held as follows:

"12. In our opinion, whether the Returning Officer is justified in rejecting this Form B submitted by the first respondent herein or not, is not a matter for the High Court to decide in the exercise of its writ jurisdiction. This issue should be agitated by an aggrieved party in an election petition only."

5. It is seen that the election has already been conducted and the members have been selected and swearing ceremony has been scheduled. At this juncture, in the light of the aforesaid judgments of the Hon'ble Supreme Court cited supra, that once election process is conducted and the persons are duly elected, the prayer sought for in the writ petition cannot be considered. However, liberty is granted to the petitioner to file an



election petition before the election tribunal, if so advised.

6. With the above observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Tamilnadu State Co-operative
Election Commission,
Kamadenu Super Market I Floor,
No.273, Anna Salai,
Chennai 600 018.
- 2.Deputy Registrar,
District Election Officer,
Attur,
Salem District.
3. The Co-operative Sub-Registrar/Field Officer,
Thalaivasal Block,
Salem District,
as Electoral Officer,
S-1399, Pungavadi Pudur Primary
Agricultural Co-operative Society Ltd.
4. The Special Officer,
S-1399, Pungavadi Pudur Primary
Agricultural Co-operative Society Ltd.,
Attur Taluk,
Salem District.

+1cc to Mr.M.Rajendiran, Advocate, S.R.No.64604
+1cc to the Government Pleader, S.R.No.64195
+1cc to Mr.L.P.Shanmugasundaram, S.R.No.64159

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PVS (CO)

RRS (29/08/2019)