

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22112 of 2019

and WMP.No.21379 of 2019

R.Veerarasu

... Petitioner

Vs.

- 1.The Tamilnadu Co-operative Societies,
Election Commission,
No.273, Kamadenu Supermarket,
Anna Salai, Chennai-600 018.
2. The Committee on Co-operative Election Cases,
East Central Zone, Thiruchirapalli.
3. The District Election Officer/Deputy Registrar,
of Co-operative Societies, Nagapattinam Circle.
4. Election Officer/Sub Registrar of Co-operative Society,
Vedaranyam Primary Agricultural Co-operative Credit Society,
Nagapattinam District.
5. Vedaranyam Primary Agricultural Co-operative Credit
Society,
rep.by its Secretary, Nagapattinam District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in relates to the impugned order passed by the 2nd respondent dated 12.04.2019 and subsequent proceedings passed by the 1st respondent in Na.Ka.No.2280/2019/Koo.They 2(3) dated 19.07.2019 and to quash the same and consequently direct the 1st respondent to conduct a afresh election by fresh notification for the 5th respondent society.

For Petitioner : Mr.V.Kasinatha Bharathi
For Respondents: Mr.M.S.Palanisamy for R1.

Mr.D.Venkatachalam,
Additional Government Pleader (Co-op)
for R3, R4 and R5.

O R D E R

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records in relates to the impugned order passed by the 2nd respondent dated 12.04.2019 and subsequent proceedings passed by the 1st respondent in Na.Ka.No.2280/2019/Koo.They 2(3) dated 19.07.2019 and to quash the same and consequently direct the 1st respondent to conduct a afresh election by fresh notification for the 5th respondent society.

2.The petitioner is a member of the 10661 Vedaranyam Primary Agricultural Co-operative Credit Society Ltd., Vedaranyam Town and Taluk, Nagapattinam District. The respondents announced election for the co-operative societies in all over Tamil Nadu. Being the active member of the 4th respondent society, the petitioner has willing to participate in the election and duly filed the nomination papers before the 3rd respondent. But the 3rd respondent under the guise of ruling party, rejected the nomination of mine and other identically placed persons for on unjustifiable grounds. The petitioner submitted that without intimating proper reasons several nominations has been rejected. All of a sudden, the first respondent announced election for the 6th respondent society by his proceedings in Na.Ka.No.2280/2019/Koo.They 2(3) dated 19.07.2019 in which he announced election for the 6th respondent society. The election announced for the 6th respondent society by the order of the 2nd respondent and subsequent proceedings passed by the 1st respondent is contrary to law. Aggrieved by the same, the present writ petition is filed.

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(CS VIII)

//True Copy//

Sub Assistant Registrar

ssb

To

- 1.The Tamilnadu Co-operative Societies,
Election Commission,
No.273, Kamadenu Supermarket,
Anna Salai, Chennai-600 018.
2. The Committee on Co-operative Election Cases,
East Central Zone, Thiruchirapalli.
3. The District Election Officer/Deputy Registrar,
of Co-operative Societies, Nagapattinam Circle.

4. Election Officer/Sub Registrar of Co-operative Society,
Vedaranyam Primary Agricultural Co-operative Credit Society,
Nagapattinam District.

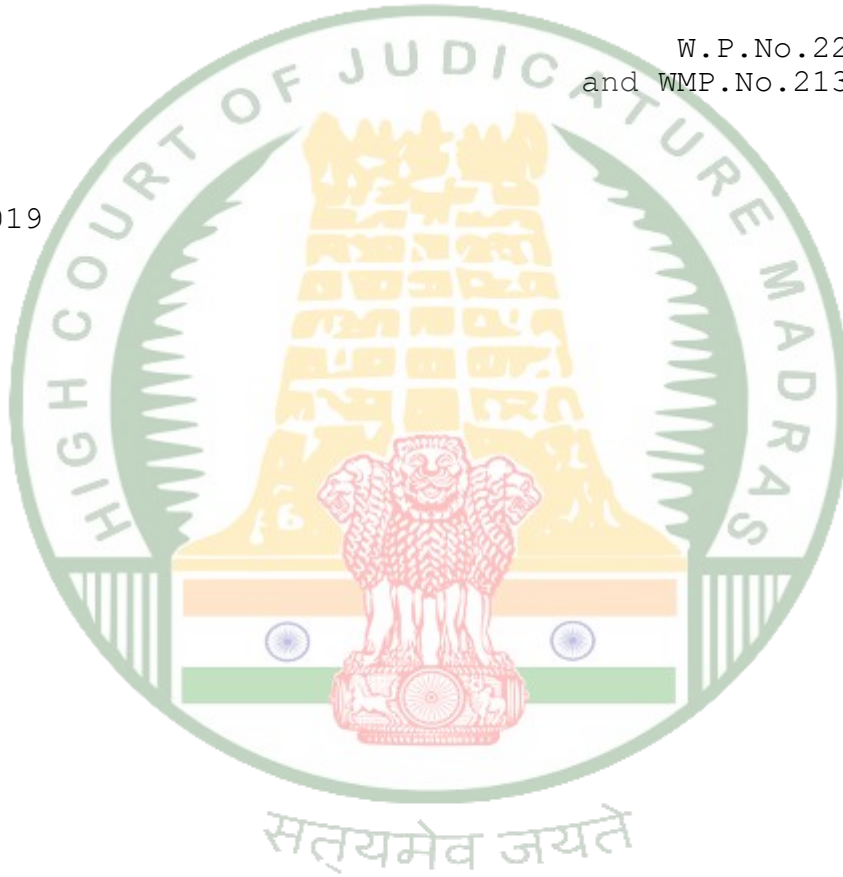
5. The Secretary
Vedaranyam Primary Agricultural Co-operative Credit
Society, Nagapattinam District

+1 cc to Mr.D.Venkatachalam Advocate sr 64181

+1 cc to Government Pleader sr 64673

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