



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.24955 of 2019
& W.M.P.No.24558 of 2019

Puducherry State National Vector Borne Disease
(Filaria - Malaria) Control,
Programme Adi-Dravidar Field Workers Welfare Association,
Represented by its Secretary Mr.S.Saravanaperumal,
No.67, Mettu Street,
Kurusukuppam, Puducherry - 605 012. ... Petitioner

/versus/

1. The Registrar of Co-Operative Societies,
Government of Puducherry,
Office of the Co-operative Department,
Thattanchavady,
Puducherry - 605 009.
2. The Administrator/Secretary,
Pondicherry Health Employees Co-operative -
Credit Society Limited,
No.3, Viconde Suilock Street,
Puducherry - 605 001. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, praying to issue Writ of Mandamus,
directing the 1st respondent to consider and take appropriate
action on representations dated 07.08.2019 & 19.08.2019
submitted by the petitioner and pass orders.

For Petitioner : Mr.Prakash Adiapadam,

For R1 : Mr.A.V.Ramalingam,
Additional Government Pleader (Pondy)

For R2 : Mr.R.Sreedharan.

O R D E R

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

2. The Pondicherry Health Employees Co-operative Credit Society Limited is a Society registered under the Puducherry Co-operative Societies Act, 1972. On 31.07.2019, the Administrator/Secretary issued notification for conducting election for the Board of Directors for the society for a period of 3 years. While so, the petitioner Association through its Secretary has given a representation to the Registrar of Co-operative Societies, Puducherry on 07.08.2019 and 19.08.2019 seeking his indulgence to postpone the Election scheduled to be held on 25.08.2019 alleging improper deletion of more than 100 voters in the Electoral roll and other mal-administration against the Administrators appointed by the Department. Since, the Registrar of Co-operative Societies, Puducherry, failed to take action on the said representation, stating that there is no other effective alternative remedy. Hence, has filed this petition seeking writ of mandamus to consider and take appropriate action on my representation dated 07.08.2019 & 19.08.2019 and pass order on his representation.

3. In the counter filed by the 1st respondent/Registrar of Co-operative Societies, Puducherry, the locus of the petitioner Association to maintain the Writ Petition is raised. The request for postponement of the Election has become redundant since, the Election process which commenced on 31.07.2019 completed on 25.08.2019 after declaration of results by the Election Officer. The newly elected members have assumed Office on 01.09.2019. Among them, Thiru.O.Ganapathy (President), Thiru S.Karunakaran (Vice-President) and Tmt. Radhamuthu (Treasurer) were unanimously elected as Office bearers.

4. Out of 2,653 members, 188 members were found not eligible to vote in view of their default in payment of loan. Among the eligible voters, 75.78% members exercised their franchise. During the election process, a tentative eligible voters list was published on 03.08.2019 inviting objections, if any, from the members. Not even a single member objected the tentative voters list. Only thereafter, the final voters list was published on 06.08.2019.

5. Regarding the deletion of names of the members from eligible voters list, the 1st respondent/Registrar of Co-operative Societies, Puducherry, has stated that under section 34(1)(b)(i) of the Puducherry Co-operative Societies Act, no person shall be eligible for being elected or appointed as a member of the committee if he is in default to the Society or to any other registered society for a period of more than 3 months.

Regarding other allegations of mal-administration referred in the representation, the 1st respondent/Registrar of Co-operative Societies, Puducherry, has stated that the books of accounts are properly audited by the Chartered Accountants appointed by the RCS. No pendency in the conduct of annual statutory audits of the Society, as alleged by the petitioner.

6. Further, the learned counsel appearing for the 1st respondent would state that, any dispute including election dispute, shall be referred to the Registrar of Co-operative Societies, for adjudication under section 84 of the Act. Such dispute can be filed within two months from the declaration of the election result as per Rule 64(2). Any member of the member of the Society, if aggrieved can always resort to the statutory remedy available under the Act and Rules. The petitioner Association is no way connected with the affairs of the Society. Hence, the Writ Petition has to be dismissed.

7. The Elected President has filed counter affidavit on behalf of the 2nd respondent/Administrator, Puducherry Health Employees Co-operative, wherein, he has emphasised that the petitioner Association is no way connected with the activities of the Society. The Society, after being administered by nominated Administrators for nearly 5 years has returned to the elected representatives through proper electoral process. After due notification election has been concluded. The defaulters have not raised any objection regarding the deletion of their names from the voters list. The petitioner Association is not a member of the Society. It has not sustained any injury whatsoever to maintain the Writ Petition. The members are all employees of Health Department, either at present serving in the Health Department or in any other department on deputation. Hence, the bald allegation that persons working in other Departments are made members of the Society is baseless.

8. Heard the Learned Counsels for the petitioner and the respondents.

9. Prima facie, the petitioner Association has no locus to maintain this Writ Petition. The petitioner has not even stated who are the members of the respondent Society are the members of the petitioner Association and how many of them were denied voting right. Even assuming some of the members of the petitioner Association are also members of the respondent

Society (this fact itself not been properly established or stated by the petitioner) that will not give any locus for the Association to maintain a Writ of this nature. When a specific allegation is made that, the right of voting of an individual has been deprived illegally. Only the members denied of voting right has to agitate his cause and not an Association which is no way connected to the object of the Society.

10. Further, Rule 22 of the Pondicherry Co-operative Societies Act, 1973 restricts defaulting member to vote in election. Admittedly the members who were not permitted to vote are all defaulters. When the draft voters list published on 03.08.2019, they should have either cleared the dues or sought for exemption from payment or should have represented that bar under Rule 22 is not applicable to them. Then, the same would have been tested with the other provisions of the Co-operative Societies Act and the Bye-laws of the Society. None of the members whose name not included in the eligible voters list has objected the exclusion.

Rule 22 of the Pondicherry Co-operative Societies Act, 1973, Section 25 and Section 34 of the Pondicherry Co-operative Society Act, 1972, all deal with restriction on voting by member and Disqualification for membership of committee. The relevant portion is extracted below:-

Rule 22: Restrictions on defaulting member to vote at the election:-

No member shall be eligible to vote at the meeting fixed for any election, if, on the date of thirty days prior to the date of such meeting:-

- (i). he is in default to the society; or
- (ii). he is a person against whom any decree, decision, award or order referred to in section 133 has been obtained and such decree, decision, award or order be subsisting.

Section 25. Votes of members:- (1) (a) No member of a registered society shall have more than one vote in the affairs of the society.

(b) Every question which may come before a meeting of a registered society or of the committee shall be decided by a majority of the members present and voting at the meeting and in every case of equality of votes, the question shall be deemed not to have been decided:

Provided that:-

(a)

(b) the Society may by its by-laws restrict the right of a member to vote in any specified matter;

Section 34: Disqualifications for membership of committee:- (1) No person shall be eligible for being elected or appointed as a member of a committee if he -

(a)

(b) (i) is in default to the Society or to any other registered society or if he is a representative of a society, which is in default to the financing bank or to any other registered society, in respect of any sum of money due by him or by the society, which he represents for a period exceeding three months.

11. Apart from factual disqualification to vote, even legally besides lack of locus of the petitioner Association, there are few more reasons to hold that this Writ Petition is not maintainable and liable to be dismissed. Those reasons are, a Writ of Mandamus to postpone the election process already notified cannot be issued. When appeal remedy to resolve the election dispute is specified in the Act, any person aggrieved has to resort only to that statutory appeal remedy and not the constitutional remedy, by-passing the alternate efficacious remedy.

12. In the result, Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Registrar of Co-Operative Societies,
Government of Puducherry,
Office of the Co-operative Department, Thattanchavady,
Puducherry - 605 009.
2. The Administrator/Secretary,
Pondicherry Health Employees Co-operative -
Credit Society Limited,
No.3, Viconde Suilock Street,
Puducherry - 605 001.

+1cc to Mr.R.Sreedhar, Advocate SR.NO. 81249

+1cc to Government Pleader SR.NO. 81406

Writ Petition No.24955 of 2019

mp(co)
nr 31/10/2019

सत्यमेव जयते

WEB COPY