

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.3221 of 2019
and
C.M.P.No.20400 of 2019

1.Ravirajamurugan
2.N.Bharathiraj
3.A.Suresh Babu
4.P.Babu

... Appellants

Vs

1.The Secretary,
West Zone Committee,
Co-operative Elections,
Coimbatore.

2.The State Election Commissioner,
Co-operative Elections,
Kamadhenu Super Market Building,
273, Scheme Road,
Subbaroya Nagar,
Teynampet, Anna Salai,
Chennai 600 018.

3.The District Election Officer /
Deputy Registrar of Co-operative Societies,
Salem Circle,
Salem District.

4.The Election Officer,
S.S.47, Salem Panchayat Union,
Teachers and Employees Co-operative Thrift,
and Credit Society Limited,
Salem District.

5.M.Srinivasan

6.A.Rajkumar

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order made in W.P.No.23470 of 2019 dated 09.08.2019 on the file of the High Court of Judicature at Madras.

WP No.23470/2019:

Petition under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the order in case No.165/2018 dated 21.6.2019 of the 1st Respondent and quash the same.

For Appellants :Mr.M.Ravi

For Respondents :Mrs.T.Girija, Government
Advocate for R3.

Mr.L.P.Shanmugha sundaram
Special Government Pleader
for R4.

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The persons who were successful in getting declared themselves as unopposed or unanimously elected Board of Directors to the SS47, Salem Panchayat Union Teachers and Employees Co-operative Thrift and Credit Society Limited and whose elections have been set aside by the 1st respondent committee, have challenged unsuccessfully the order passed by the 1st respondent before the learned Single Judge. After hearing the parties, the learned Single Judge has dismissed the Writ Petition and thus, the order of the learned Single Judge is questioned before this Court.

2.Mr.Ravi, learned Counsel appearing for the appellants would submit that the appellants have been declared unopposed or unanimously elected Directors of the 4th respondent society and therefore right got accrued to them and without notice to them, a decision has been reached by the enquiry committee for co-operative societies election and thereafter notice has been issued to the appellants.

3.Secondly, the election was set aside and fresh election has been ordered. The only ground on which the election was cancelled is that the signatures of the 5th and 6th respondents as found in the nomination forms varied from the signatures found in the withdrawal applications. He would point out that not only the signatures in the nomination forms and the withdrawal applications but also in the representation given to the election authorities for cancelling the election also varied. Therefore, much weightage cannot be given to the fabrication of signatures of the 5th and 6th respondents.

4. When their rights got accrued, they should have been given an opportunity whereas, in this case, decision has been taken and notice has been served upon them and formal hearing has been given and eventually resulted in setting aside the election. Therefore he seeks to set aside the order passed by the committee and the order of the learned Single Judge.

5. A close scrutiny of the records would reveal that elections to the 4th respondent committee was notified and as many as 14 nominations were received out of which 8 nominations were under general category as against the required 4, 2 nominations were under the SC/ST category as against the required 1 and 4 nominations were under the women category as against the required 2 .

6. After filing of nominations before the end of the withdrawal date, 7 candidates's nominations including the Fifth and Sixth Respondents were withdrawn and therefore the remaining 7 candidates have been declared unopposed or unanimously elected Directors on 07.08.2018.

7. Aggrieved over the same, the Fifth and Sixth Respondents gave representation stating that they did not withdraw their nominations and by putting their signatures fraudulently, their nominations have been withdrawn only to see that the appellants and other members were elected unopposed.

8. Hence, all the records were called for by the committee and factually found that the signatures found in the nominations varied from the signatures found in the withdrawal applications. Even the signatures of the Fifth and Sixth Respondents in the representation given to the authorities alleging that their signatures were forged, were also found to vary.

9. When that is the position, it is a matter to be gone into. A cloud has been passed whether 5th and 6th Respondents actually withdrew their nominations or not. The committee categorically found that the 5th and 6th Respondents are teachers and literate persons and as they took decision to contest election, the nominations could not have been likely withdrawn especially when the Fifth and Sixth Respondents immediately made objections regarding their withdrawal.

10. It is not only in this case, but also all over Tamil Nadu elections were declared uncontested which is unknown in the history of our Country. Even for a small post, there will be direct competition. It is not known as to how the Directors were elected unanimously or unopposed.

11. While sitting in Madurai Bench of this Court, one of us (N.K.K., J.) sitting with another Judge, found that majority

of the co-operative societies elections were cancelled and declared unanimous or unopposed. Therefore, there is a fraud or foul play in declaring most of the Directors as unopposed and therefore, Division Bench of this Court constituted 4 committees zone-wise and retired Judges of this Court have been appointed and the said committees undertook and examined all the pending disputes raised by the candidates whose nominations were illegally rejected. One such case is being focussed by the appellants.

12.The committee, on examination of the documents produced before this Court, factually found that the signatures varied. The teachers being educated would not have withdrawn the nominations after taking a decision to contest the election. These are the circumstances which weighed in the mind of the learned Single Judge presiding over the Committee and also the learned Single Judge of this Court.

13.Further, this Court is also convinced with the reasons given by the committee as well as by the learned Single Judge. It is not as if appellants' right has been taken away. If it is so, as the appellants are powerful and popular with the members of the society, still they can contest the election and can win with thumping majority. Hence, there is no reason to interfere with the order of the learned Single Judge and hence, the appeal fails.

14.It is needless to say that if this order is acted upon, no prejudice would be caused to any of the parties and election could be decided in the favour of the persons who have got popularity and majority.

15.In the result, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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Coimbatore.

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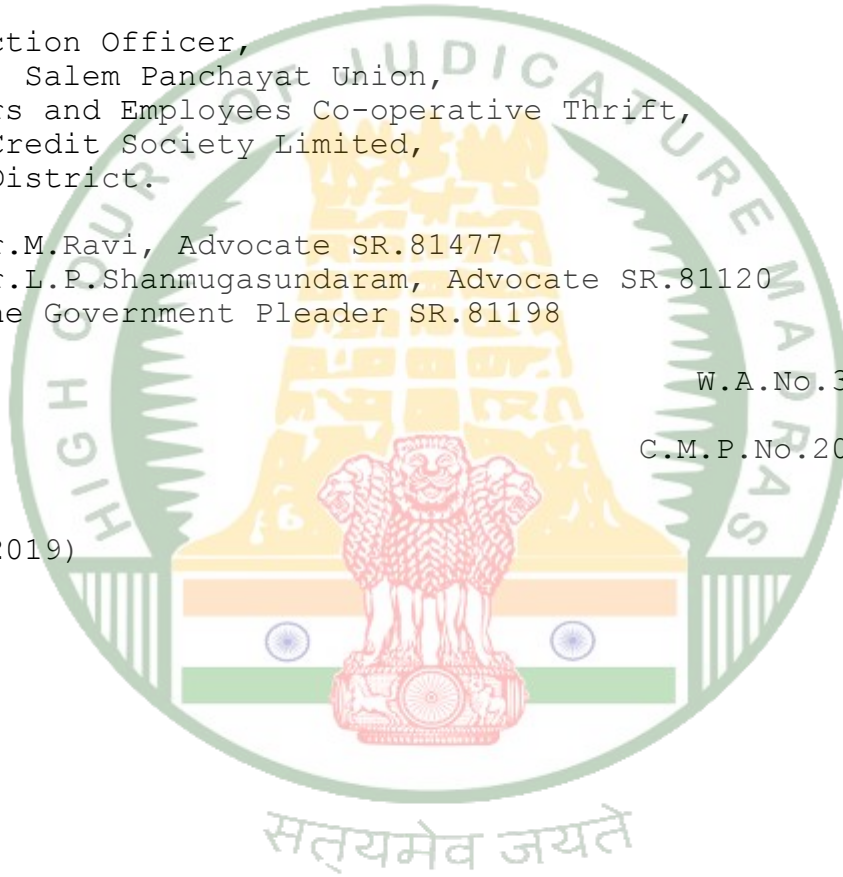
+1cc to Mr.M.Ravi, Advocate SR.81477

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.81120

+1cc to the Government Pleader SR.81198

W.A.No.3221 of 2019
and
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MP(CO)
CB(06/11/2019)



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