

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.11.2019

PRONOUNCED ON : 26.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.31828 of 2019

Mr.R.Murali Mohan

...Petitioner

Vs

1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of Co-operative
Food and Consumer Protection,
Fort St. George,
Secretariat,
Chennai - 600 009.

2.The Election Commissioner,
The Tamil Nadu Co-operative Societies,
No.273, 1st Floor, Anna Salai,
Chennai - 600 018.

3.The Registrar of Co-operative Societies,
N.V. Maligai, No.170, EVR Salai,
Chennai - 600 010.

4.The Managing Director,
The Tamil Nadu Co-operative Union,
Chennai - 600 010.

5.The Joint Regional Director,
Kancheepuram District Co-operative Union,
Kancheepuram,
Kancheepuram District.

6.The Managing Director,
Kancheepuram District Co-operative Union,
Kancheepuram,
Kancheepuram District.

7.The Chairman,
Maduranthagam Co-operative Sugar Mills,
Padalam, Kancheepuram District.

8.The Managing Director,
Maduranthagam Co-operative Sugar Mills,
Padalam,
Kancheepuram District.

9.The District Collector,
Kancheepuram,
Kancheepuram District.

10.The Deputy Registrar of co-operative Union,
Kancheepuram Circle,
Kancheepuram,
Kancheepuram District.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the respondents 1 and 6 to give effect to the resolution dated 21.11.2018 adopted by the Board of Directors of the 7th respondent and the same being communicated vide letter dated 02.01.2019 in Na.Ka.No.982/2018/A by appointing the petitioner as the representative of the 7th respondent to the Board of the 6th respondent in terms of Schedule - II, Part - A, 16(A) (ix) of Tamil Nadu Co-operative Societies Rules, 1988.

For Petitioners :Mr.N.Nithianandam

For Respondents 1 & 3 :Ms.T.Girija, Government Advocate

For 2nd Respondent : Mr.M.S.Palaniswamy

For Respondents 4 to 10: Mr.L.P.Shanmugasundaram,
Special Government Pleader

ORDER

The writ petition is filed by one of the Directors of the seventh respondent Sugar Mill seeking mandamus directing the respondents 1 and 6 to give effect to the resolution passed by the seventh respondent society on 21.11.2018 and appoint him as the representative of the seventh respondent society in the sixth respondent Union.

2.At the outset, itself this Court is forced to record that the prayer of the writ petitioner herein is misplaced and contrary to the procedure contemplated under the Tamil Nadu Co-operative Societies Act. Sections 19 & 20 of the Tamil Nadu Co-operative Societies Act, which reads as below:-

"19. Co-operative Unions. - There shall be a co-operative union for the State of Tamil Nadu called "Tamil Nadu Co-operative

Union Limited", and as many District Co-operative Unions as may be deemed necessary for a district or part thereof.

20. Registered societies to be members of Co-operative Unions. - (1) Notwithstanding anything contained in section 21, every registered society shall, with effect on and from the date of the commencement of this Act or with effect on and from the date of its registration, whichever date is later, be deemed to be a member of the District Co-operative Union or the Tamil Nadu Co-operative Union, as the case may be, if such registered society is eligible to become a member of any such Union in accordance with the bye-laws of such Union.

(2) Every registered society shall pay to the Co-operative Union of which it is deemed to be a member under sub-section (1), an annual subscription at such rate as may be prescribed. "

3.Hence, this Court is proposed to dismiss the writ petition for the following reasons:-

(i)The petitioner is one of the Director of the seventh respondent Sugar Mill which is a society registered under the provisions of the Tamil Nadu Co-operative Societies Act;

(ii)Under the Tamil Nadu Co-operative Societies Act, 1983, there shall be a Co-operative Union for the State called Tamil Nadu Co-operative Union Limited. For the said Union, the registered societies will be members under Rule 59 of the Tamil Nadu Co-operative Societies Rules 1988. The constitution of a Board of a scheduled co-operative society stated shall be in the manner specified in Schedule II of the Rules.

(iii)The grievance of the petitioner is that, having been nominated by a Society as a representative, he should be automatically construed as a member of the District Co-operative Union since, there is no other nominee. For that purpose, the learned counsel for the petitioner referring Schedule II Part - A 16(A) of the Tamil Nadu Co-operative Societies Rules, would submit that the constitution of a District Co-operative Union other than Chennai District Co-operative Union shall have 21 elected members. One of whom will be the member elected from

among themselves by the delegates of all member Co-operative sugar mills and spinning mills.

(iv) It is contended by the petitioner that as far as Kancheepuram District is concerned, there is only one co-operative sugar mill and there is no spinning mill at all. Therefore, he is the sole delegate who is eligible to be elected under this category specified in Schedule II, Part - A of 16(A) (ix) of the Rules. Having been nominated by his Board of Governors, he has to be automatically taken into District Co-operative Union. This contention on the face of it, is incorrect. Rule 59 of the Tamil Nadu Co-operative Society Rules reads as follows:-

"59. Constitution of the board of scheduled co-operative societies. - The board of every scheduled co-operative society shall be constituted in the manner specified in Schedule II."

Relevant provisions in Schedule II, Part - A of 16(A) (ix) of the Rules are extracted below:-

"16(A). District Co-operative Unions (Other than Chennai District Co-operative Union):

(1) Twenty one elected members of whom,

(i)

(ix) one member elected from among themselves by the delegates of all member co-operative sugar mills and spinning mills;"

(v) So, mere nomination from his society, is not sufficient to become a member in the District Co-operative Union unless the petitioner contest for the election.

4. In the counter, the Deputy Registrar of Co-operative Society has clearly stated that mere inclusion of the name of the petitioner in the voters list will not entitle the petitioner to be a member of the Board of a Management of Kancheepuram District Cooperative Union unless, he file nomination paper to that particular constituency relating to co-operative sugar mills and spinning mills.

5. As per the election schedule, which was published in Tamil daily since, there was no nomination at the time of election for

the said constituencies, still the post is kept vacant and it is open to the petitioner herein to file his nomination when election is notified to fill the said particular constituency.

6.As pointed out earlier, the petitioner herein is under the impression that being the sole eligible candidate to be elected from the constituency of co-operative sugar mill and spinning mill in the District, his election to the District Union is automatic. The constitution of District Union is prescribed under Rule 59 r/w schedule II of the Tamil Nadu Co-operative Rules. For the District Co-operative Union, there shall be 21 elected members one co-opted member and 4 functional Directors who are all Ex-officio members. The petitioner is eligible to be elected under the constituency of co-operative sugar mill and spinning mill members.

7.The contention of the petitioner that, he being nominated from the delegates of Co-operative sugar mill, is suffice to become the member of the District Co-operative Union. The nomination of the petitioner by its Board of Directors will only give him a status of delegate. That by itself will not confer him the right to be the elected member in the District Co-operative Union unless, he file the nomination in the election and get elected.

8.For the reasons stated, the writ petition is dismissed as misconceived. No costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

jbm
To

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Represented by its Secretary,
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+1 CC to Spl. Govt. Pleader (CO OP) sr 98976.

+1 CC to Mr.N.Nithianandam, Advocate sr 98806.

+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 98739.

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CA (CO)
SP (07/01/2020)