

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.25565 of 2018
and
WMP.Nos.29722 and 29726 of 2018

1.S.R.Shanmugam
2.P.Radhakrishnan
3.M.Lakshmanan
4.N.Kumaresan

.... Petitioners

Vs.

1.The Tamil Nadu State Co-operative
Election Commissioner,
No.273, Anna Salai, Teynampet,
Chennai-600 018.

2.The Registrar of Co-operative Societies
Ritherdon Road, Vepery,
Chennai-600 007.

3.The Deputy Registrar of Housing Cooperative Societies
Chengalpattu District Election Officer
(Co-operative), Kanchipuram District.

4.The Secretary,
Mamallan Housing Cooperative Society Limited,
No. G-2085, Mamallan Nagar,
Kanchipuram District - 631 052.

5.K.Shanmugam

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, calling for the records relating to the order of the first respondent passed in his proceedings Na.Ka.No.3854/2018 CO.OP ELE.2 dated 08.06.2018 and quash the same and direct the first respondent or the third respondent to consider the ineligibility of the 5th respondent to be a voter and his filing of nomination to the Board of Directors of the 4th respondent Cooperative Society namely Mamallan Housing Cooperative Limited No. G-2085 Mamallan Nagar, Kanchipuram District.

For Petitioners : Mr.P.Ebenezer Paul

For Respondents : Mr.M.S.Palaniswamy for R-1
Standing Counsel for Tamil Nadu State
Co-operative Societies Election Commission

Mr.L.P.Shanmugasundaram for R2 to R4
Special Government Pleader
Cooperatives,

Mr.G.Vijayababu for R-5

O R D E R

This writ petition has been filed challenging the order passed by the first respondent dated 08.06.2018 and seeking a direction to the first respondent to conduct Election to the 4th respondent Society.

2.The grievance of the petitioners is that the 5th respondent herein was not qualified to contest the election as per Section 34 of the Tamil Nadu Co-operative Societies Act, but he has filed his nomination to contest the election to the Board of Directors of the 4th respondent Society. Even though the petitioners raised their objection for his nomination, without considering their objection, the nomination of the 5th respondent is accepted. Thereafter, the petitioners make a representation before the first respondent and also marked a copy of the said representation to the 3rd respondent/Deputy Registrar. Pursuant to the objection filed by the petitioners, the present impugned order has been passed by the respondent, thereby the election proceedings till the withdrawal of the nomination has been set aside and the election is ordered to be resumed from the stage of withdrawal of the nomination. Now, Challenging the above impugned order, the present writ petition is filed.

3.Mr.P.Ebenezer Paul, the learned counsel appearing for the petitioners submitted that the petitioners raised their objection regarding disqualification of 5th respondent to contest election and without considering that objection, now the Election Commission has passed impugned order to resume the election from the stage of withdrawal of the nomination.

4.Mr.L.P.Shanmugasundaram, the learned counsel appearing for the respondents 2 to 4, on instructions, submitted that now based on the objections raised by the petitioners, the 3rd respondent/Deputy Registrar of Housing Co-operative Societies,

conducted enquiry regarding the allegation made by the petitioners, but no orders have been passed.

5.Mr.G.Vijayababu, the learned counsel appearing for the 5th respondent submitted that enquiry before the third respondent is almost over and he has to pass orders, on the objections filed by the petitioners.

6.Considering the above circumstances, as the objections of the petitioners are being enquired by the 3rd respondent, the 3rd respondent/Deputy Registrar of Housing Co-operative Society is directed to complete the enquiry and pass suitable orders on the objections of the petitioners regarding the disqualification of the 5th respondent within a period of two weeks from the date of receipt of a copy of this order. Subject to the order passed by the 3rd respondent, the first respondent is directed to issue fresh election schedule thereafter.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected WMPs are closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

rrg

To

The Tamil Nadu State Co-operative
Election Commissioner, No.273, Anna Salai, Teynampet,
Chennai-600 018.

+1cc to Mr.K.M.Balaji, Advocate SR.No.5149

+1cc to Mr.V.krishnamurthy, Advocate SR.No.4755

+2ccs to Mr.L.P.Shanmugasundaram, Advocate SR.No.4940,5721

W.P.No.25565 of 2018

GMV (19/02/2019)