

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.34085 of 2018

and

W.M.P. Nos.39600 and 39601 of 2018

M.Devendran

... Petitioner

Vs.

1. The Government of Puducherry,
Represented by
The Secretary to the Department of Co-operative,
Puducherry.
2. The Puducherry Public Works Department,
Staff Co-operative Society Limited
represented by its Secretary,
No.P-252, No.65,
Nethaji Subhash Chandra Bose Street,
Puducherry,
605 001.
3. The President,
The Puducherry Public Works Department,
Staff Co-operative Society Limited,
No.P-252, No.65,
Nethaji Subhash Chandra Bose Street,
Puducherry,
605 001.
4. The Registrar of Co-operative Societies,
Vedapureeswara Varadaraja Perumal Nagar,
Puducherry,
Vazhudoor Road,
Thattanchavady, Pondicherry - 605 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to call for the impugned notification dated 01.12.2018 issued by the 3rd respondent and quash the same and consequently, direct the 2nd respondent to draw voter's list and to issue a fresh notification only in accordance with the bye-laws of the Society.

For Petitioner : Mr.M.Muralidharan

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

ORDER

This writ petition has been filed to call for the records relating to the impugned notification dated 01.12.2018 issued by the 3rd respondent and quash the same and consequently, direct the 2nd respondent to draw voter's list and to issue a fresh notification only in accordance with the bye-laws of the Society.

2. According to the petitioner, he is working as Works Assistant in the Public Works Department and he is also one of the members of the second respondent Society. It is his case that during the year 2015, elections were conducted for the second respondent Society, in which, he was elected as Secretary. The term of elected office bearers was three years. After expiry of the term of the office bearers of the second respondent Society, the 3rd respondent has passed the impugned notification, in which the name of ineligible candidates were included. It is also the grievance of the petitioner that his name was erroneously included in the second constituency instead of including his name in the first constituency. The petitioner has also submitted his objection both for including his name in the second constituency as well as for including the names of the certain ineligible persons. As there is no response, the present writ petition has been filed.

3. Heard the learned counsel for both sides.

4. When the writ petition was taken up for admission on 11.01.2019, this Court has not granted any interim order.

5. Upon notice, the learned Additional Government Pleader (Pondicherry) appearing for the respondents would submit that the writ petition is not maintainable, especially when the notice which is impugned in this writ petition relates to conduct of election to the 3rd respondent Society. Even otherwise, the election of the 3rd respondent Society has already held and the office bearers of the second respondent Society have been elected and they have also assumed office. Therefore, at this stage, at the instance of the petitioner, the impugned notification need not be interfered with by this Court. However, it is submitted by the learned Additional Government Pleader that there is an alternative and efficacious remedy available under Section 84 of the Pondicherry Co-operative Societies Act. However, the petitioner without availing the alternative remedy has come forward with this writ petition and

therefore, also the writ petition deserves to be dismissed.

6. Admittedly, what is challenged in this writ petition is a notification issued by the 3rd respondent proposing to conduct election to the second respondent Society. The grievance of the petitioner is that the names of certain ineligible members were included in the election list and that his name has been erroneously included in Constituency No.2 instead of Constituency No.1 and thereby his right to contest the election has been denied. First of all, such a disputed cannot be adjudicated by this Court under Article 226 of the Constitution . As rightly point out by the learned Additional Government Pleader, there is an alternative remedy before the appropriate authority under Section 84 of the Pondicherry Co-operative Societies Act. But, without availing the same the petitioner has approached this Court. Even otherwise in exercise of Power under Article 226 of The Constitution of India, this Court cannot adjudicate the dispute relating to election. Therefore, for the above reasons, this Court is not inclined to entertain the writ petition. Even otherwise, as pointed out by the learned Additional Government Pleader, the election to the second respondent Society has been convened and office bearers assumed to the post in which they were elected and therefore also this Court is not inclined to grant the relief sought for herein. At the same time, liberty is granted to the petitioner to work out his remedy as contemplated under Section 84 of the Pondicherry Co-operative Societies Act, before the appropriate authority. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vsi2

To

1.

The Secretary to the Department of Co-operative,
Government of Puducherry,
Puducherry.

2. The Secretary,

Puducherry Public Works Department,
Staff Co-operative Society Limited

No.P-252, No.65,
Nethaji Subhash Chandra Bose Street,
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3. The President,
The Puducherry Public Works Department,
Staff Co-operative Society Limited,
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Vedapureeswara Varadaraja Perumal Nagar,
Puducherry,
Vazhudoor Road,
Thattanchavady, Pondicherry - 605 009

+1 cc to Mr.S.M.Muralidharan, Advocate, Sr.No. 19819

+1 cc to The Government Pleader, Sr.No. 20157

W.P.No.34085 of 2018

SSI (CO)
CSL/01.06.2019



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