



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM:

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**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P(MD)NO.13164 OF 2019

and

W.M.P(MD)No.9806 of 2019

K.Seenivasan

:Petitioner

.vs.

1.The Commissioner,
Tamil Nadu Co-operative Societies Election Commission,
273, Scheme Road,
Subbarayan Nagar,
Teynampet,
Chennai - 600 018.

2.The Joint Registrar of Co-operative Societies,
Tirunelveli,
Tirunelveli District.

3.The Deputy Registrar of Co-operative Societies,
District Election Officer,
Perumalpuram,
Tirunelveli District.

4.The Managing Director,
O.2181, The Tirunelveli Consumer
Co-operative Wholesale Stores Limited,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 4 to delete the names of dead members in the voters list prepared by them before holding the election to the post of Office Bearers(Executive Members) of O.2181, The Tirunelveli Consumer Co-operative Wholesale Stores Limited, Tirunelveli District pursuant to the election notification, dated 4.6.2019 issued by the third respondent.

For Petitioner : Mr.R.Anand

For Respondent-1 : Mr.G.Rajendran
Standing Counsel



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For Respondents
2 to 4

:Mr.K.Chellapandian
Addl.Advocate General,
assisted by
Mr.A.K.Baskarapandian,
Special Govt.Pleader

O R D E R

[Order of the Court was made by **K.RAVICHANDRABAABU., J.**]

This Writ Petition is filed for a mandamus directing the respondents 1 to 4 to delete the names of dead members in the voters list prepared by them before holding the election to the post of office bearers (Executive Members) of 0.2181, The Tirunelveli Consumer Co-operative Wholesale Stores Limited, Tirunelveli District pursuant to the election notification, dated 4.6.2019 issued by the third respondent.

2.Heard Mr.R.Anand, learned counsel appearing for the Petitioner and Mr.G.Rajendran, learned Standing Counsel appearing for the first respondent and Mr.K.Chellapandian, learned Additional Advocate General (assisted by Mr.A.K.Baskarapandian, learned Special Government Pleader) appearing for the respondents 2 to 4.

3.The grievance of the Writ Petitioner in this Writ Petition, as projected by the learned counsel for the Petitioner, is that election to the subject-matter Co-operative Society is going to be held by preparing a voters list containing the names of several dead persons. Therefore, it is contended that the election conducted with such a defective list will not be a fair and proper election. The affidavit filed in support of the Writ Petition listed out the names of 8 persons as a sample, by stating that though those persons are already dead and their names are found in the electoral list. Therefore, it is contended that the respondents cannot be permitted to conduct the election based on the defective voters list, without rectifying the same.

4.Mr.R.Anand, learned counsel for the Petitioner vehemently contended that certain procedures contemplated in the relevant rules are also not followed while preparing the electoral list and also while conducting the election.

5.On the other hand, the learned Additional Advocate General appearing for the respondents 2 to 4 submitted that when the Petitioner come before this Court earlier and point out that the names of 74 dead persons are found in the electoral list, the same was rectified and a fresh voters list was published as early as on 12.1.2019, the Petitioner cannot now rush to this Court at the 11th hour and file the present Writ petition by contending that there are other dead persons whose names are also found in the electoral list. He further contended that even otherwise, his grievance is



not left as such unattended, in view of the fact that by proceedings, dated 12.06.2019, the Joint Registrar of Co-operative Societies, Tirunelveli, issued a direction to the Election Officer to verify the voters list on 14.6.2019 and cross check as to whether the 12 names shown in the complaint are really dead persons. Therefore, he contended that the election will be conducted only in accordance with law, that too, after verifying the voters list and the Voters who come to exercise their franchise.

6.We have given our careful consideration to the rival submissions made by the respective parties.

7.This is a third round of litigation at the instance of the very same petitioner in respect of the subject-matter election. Firstly, the Petitioner filed W.P(MD)No.20655 of 2018 for a mandamus directing the respondents to prepare the voters list afresh after deleting the dead members and after rectifying the flaws occurred in the earlier occasion, before notifying the election to the post of Office Bearers(Executive Members) of 0.2181, The Tirunelveli Consumer Co-operative Wholesale Stores Limited, Tirunelveli District, on the basis of the Petitioner's representation, dated 12.09.2018. The said Writ Petition was disposed of by the Division Bench of this Court on 01.10.2018, by observing at paragraph Nos. 4 and 5 as follows:

''4. The learned Special Government Pleader appearing for the respondents 2 to 4 submitted that the petitioner has come to this Court too early, because till date no fresh list for the fourth respondent Society has been finalized. After finalization of the election process to the Primary Co-operative Society which is at the phase-I level, the second phase of election to the Taluk Level Co-operative Society will be completed only on 16.10.2018, by electing the President, Vice President and others. After 16.10.2018, the Election Officer will prepare a fresh voters list, necessarily by looking into the complaints and the representation given not only by the petitioner and others for deletion of the dead persons and ineligible voters. But the petitioner has wrongly and hurriedly come to this Court. In any event, while considering the finalization of the fresh voters list, the Election Officer will prepare a fresh voters list eliminating all ineligible and dead persons. However, he has submitted that after 16.10.2018, if any new members enlisted their names, the same may be considered by the Election Officer independently as per the Tamil Nadu Co-operative Societies Act.

5. In any event, the statement made by the learned Special Government Pleader that after completion of the



second phase of election on 16.10.2018, fresh and new voters list will be prepared by eliminating the dead persons and ineligible voters and the Deputy Registrar of Co-operative Societies/the District Election Officer, Tirunelveli District, the third respondent herein shall also consider the representation given by the petitioner, dated 12.09.2018, on merits, is recorded.''

8.It is seen that in pursuant to the said order made by the Division Bench, a Committee was formed on 17.10.2018 which made recommendations for deleting the names of 74 dead persons from the voters list. Accordingly, after deleting those 74 names from the voters list, the fresh list was published on 12.1.2019. Even thereafter, the Petitioner has chosen to file another Writ Petition in W.P(MD)No.1170 of 2019 seeking for a mandamus directing the respondents 1 to 4 therein to delete the names of dead members in the voters list prepared by them, so as to hold the election on 30.01.2019 to the post of office bearers (Executive Members) of 0.2181, The Tirunelveli Consumer Co-operative Wholesale Stores Limited, Tirunelveli District before the said election process is started and further to direct them to publish a fresh voters list after such deletion, on the basis of the Petitioner's representation, dated 17.1.2019. The said Writ Petition was disposed of by the Division Bench of this Court on 4.3.2019 by observing at Paragraphs 3 to 6 as follows:

''3.When the matter is called today, Mr.P.H.Aravind Pandian, learned Additional Advocate General appearing for the respondents 2 to 4 would submit that as per the order of this Court dated 01.10.2018, in W.P(MD)No.20655 of 2018, a Committee was constituted to identify the names of the dead persons. The Committee has submitted the names of 74 deceased members and the names of the said 74 members were deleted from the voters list published on 12.1.2019. The learned Additional Advocate General would further submit that there was no objection received for the said voters list either from the petitioner or any other person.

4.The learned counsel for the Petitioner would submit that the respondents have identified only 74 persons as dead persons and deleted their names in the voters list. However, still there are many dead persons, whose names have not been deleted in the voters list.

5.The learned counsel for the Petitioner has not brought before this Court any material in support of the said plea. It is stated that the list was published as early as on 12.1.2019. The Petitioner ought to have verified as to whether still there are dead persons whose names have not been deleted in the list published on 12.1.2019 and objected the list. Having not raised any objection at that point of time, it would not be proper on the part of the Petitioner, seeking to stall



the election. Further, as per the request of the Petitioner and by order of this Court, the respondents have deleted 74 dead persons in the voters list. Even if a voter, who is not alive, is alleged to have exercised his franchise, then it would be a subject-matter of election dispute.

6. In view of the submissions of the learned Additional Advocate General that the names of the 74 dead persons have been removed from the voters list, the prayer sought for by the Petitioner has been granted.''

9. Thereafter, when the election is scheduled to take place on 14.6.2019, the present Writ Petition was hurriedly filed and brought before us for admission yesterday with the relief as stated supra. As we find that 74 dead persons names have already been deleted in pursuant to the order earlier passed by this Court on 1.10.2018, which fact was also dealt with by this Court in the subsequent order made in W.P(MD)No.1170 of 2019, dated 4.3.2019, We do not propose to entertain the present Writ Petition, while the election is going to be held on 14.06.2019, especially under the circumstances that the proceedings, dated 12.6.2019 issued by the District Registrar of Co-operative Societies will take care of the grievance expressed by the Petitioner in respect of 12 more dead persons, whose names are alleged to have been included in the voters list. When the District Registrar has already issued such direction to the Election Officer through proceedings, dated 12.6.2019 and the learned Additional Advocate General also submitted that as per the said proceedings, the electoral list will be verified to ascertain the veracity of such complaint made by the Petitioner, We find no reason to entertain the present Writ Petition.

10. Accordingly, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

vsn

To

1. The Commissioner,
Tamil Nadu Cooperative Societies Election Commission,
273, Scheme Road,
Subbarayan Nagar,
Teynampet,
Chennai - 600 018.



2.The Joint Registrar of Co-operative Societies,
Tirunelveli,
Tirunelveli District.

3.The Deputy Registrar of Co-operative Societies,
District Election Officer,
Perumalpuram,
Tirunelveli District.

4.The Managing Director,
O.2181, The Tirunelveli Consumer
Co-operative Wholesale Stores Limited,
Tirunelveli District.

+1CC TO MR.G.RAJENDRAN, Advocate Sr. No.68667

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.68879

ORDER MADE IN
W.P (MD) NO.13164 OF 2019
and
W.M.P (MD) No.9806 of 2019
13.06.2019

MT (CO)

TR (24.06.2019) 6P 7C