



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2019

CORAM:

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

W.P (MD) NO.13742 OF 2019

and

W.M.P (MD) No.10291 and 10294 of 2019

A.Dhanavathi

:Petitioner

.vs.

- 1.The Committee,
The Co-operative Society Election Cases,
South Zone,
Madurai.
- 2.The Election Commissioner for Co-operative Societies
Melanambipuram 0642 Primary Agricultural Cooperative
Credit Society,
Ettayapuram Taluk,
Thoothukudi District.
- 3.The Deputy Registrar of Co-operative Societies,
(The District Election Officer, Kovilpatti)
Thoothukudi District,
Thoothukudi.
- 4.The Election Officer
Melanambipuram 0642 Primary Agricultural
Co-operative Credit Society,
Ettayapuram Taluk,
Thoothukudi Taluk.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus calling for the records relating to the first respondent by their proceedings in PROC.001/SJC/H/2018(83), dated 06.02.2019 and the consequent order passed by the third respondent in their proceeding in Na.Ka.734/2018/Sa.pa(3), dated 14.06.2019 and quash the same as illegal and consequently to direct the respondents 2 and 3 to conduct free and fair cooperative election to all category of the executive committee of the 0642-Melanambipuram Primary Agricultural Co-operative Credit Society afresh.



For Petitioner

:Mr.Veerakathiravan
Senior Counsel
for Mr.K.K.Samy

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For Respondents
1,3 and 4

:Mr.VR.Shanmuganathan
Spl.Govt.Pleader

For Respondent-2

:Mr.G.Rajendran

For proposed impleading
party/for elected person:Mr.Ajmal Khan
Senior Counsel

O R D E R

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

This Writ Petition is filed challenging the order of the first respondent, dated 6.2.2019 and the consequential order of the third respondent, dated 14.06.2019 and consequently, to seek for a direction to the respondents 2 and 3 to conduct a free and fair election to all category of Executive Committee of the 0642-Melanambipuram Primary Agricultural Co-operative Credit Society afresh.

2.Heard Mr.Veerakathiravan, learned Senior Counsel appearing for the Petitioner and Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1,3 and 4 and Mr.G.Rajendran, learned counsel appearing for the second respondent and Mr.Ajmal Khan, learned Senior Counsel appearing for the proposed impleading party.

3.The prayer sought for in this Writ Petition is in effect to conduct election to all category of the Executive Committee of the subject-matter society afresh. The Writ Petitioner filed nomination under General category. His nomination paper was originally rejected on the ground that his signature in the nomination form is different from the signature found in the admission book. Challenging the said rejection order, the Petitioner filed a Writ Petition in W.P(MD)No.7828 of 2018 and the said Writ Petition was disposed of along with batch of cases by order, dated 3.8.2018, wherein and whereby, four different committees were appointed for every zone to look into the grievance of the affected parties including the Writ Petitioner, who approached this Court. Consequently, the grievance of the Writ Petitioner in W.P(MD)No.7828 of 2018 was referred to the first respondent-committee which in-turn passed the impugned order on 6.2.2019 after hearing all the parties concerned, wherein and whereby, the first respondent-Committee set aside the election to the general category alone, with further direction to conduct



election for general category by including the name of the Petitioner. The first respondent Committee found that the rejection of the Petitioner's nomination by the third respondent was illegal. Consequently, election notification for the general category is issued on 14.6.2019 by appointing an Election Officer. The polling is to take place on 24.6.2019. At this juncture, the Petitioner has approached this Court and filed the present Writ Petition challenging the order of the first respondent Committee, dated 6.2.2019 and the consequential election notification, dated 14.6.2019.

4.The learned Senior Counsel for the Petitioner submitted that when the Petitioner has questioned the rejection of nomination in respect of all categories, the first respondent-Committee ought not to have considered the rejection of the Petitioner's nomination alone and directed the election only to the general category afresh. In other words, it is his contention that the election should be conducted afresh in respect of other categories as well.

5.We are not inclined to accept the above submission made by the learned Senior Counsel appearing for the Petitioner for more than one reason.

6.Firstly, it is to be noted that the order passed by the first respondent committee was dated 6.2.2019. If at all, the Petitioner was really aggrieved, he ought to have approached this Court and challenged the said order immediately, even before the issuance of notification of election. However, the Petitioner kept quiet all along and once the election notification is issued in compliance of the above said order by the first respondent-committee, he has filed the present Writ Petition.

7.Secondly, it is to be seen that the Petitioner, in fact, is not aggrieved by the order passed by the first respondent Committee, since his rejection of the nomination is found to be illegal and set aside and consequently, the Committee has directed fresh election to general category by including the Petitioner's nomination. Therefore, We do not find that the Petitioner can canvass the correctness or otherwise of the order passed by the first respondent committee after a long time, that too, on the ground that election to the other categories also should be conducted. Apart from the above said fact, it is to be noted that the first respondent Committee has found no other complaint received from any other category in respect of rejection of nomination. When such being the factual finding rendered by the first respondent-Committee and when election process has already commenced by the Election Commission, We are not inclined to accept the submission made by the learned Senior Counsel appearing for the Petitioner submitted that similar order passed by the Committee was put to challenge before this Court in W.P



(MD) No.3221 of 2019, wherein, interim order is granted.

8. We do not think that the learned Senior Counsel is justified in seeking for any relief in this matter when admittedly an order passed by the first respondent-Committee as early as on 6.2.2019 was allowed to be proceeded further with by issuing election notification on 14.6.2019 and at this stage, after commencement of the election process, the Petitioner has approached this Court and seeks for the above relief. However, it is open to the Petitioner to raise an election dispute after declaration of result, under Section 90 of the Tamil Nadu Co-operative Societies Act.

9. Mr. Ajmal Khan, learned Senior Counsel representing Mr. Danuskodi, elected persons in respect of other categories/proposed impleading parties, seeks to implead them as party-respondents in this Writ Petition by contending that the Petitioner has not impleaded the elected candidates of other categories even though he seeks to set aside the election of the other candidates indirectly by seeking fresh election to all categories. Therefore, he submitted that without impleading the elected candidates as party respondents, the Petitioner is not entitled to maintain this Writ Petition. Since We have chosen to reject the Writ Petition at the admission stage itself on the reason stated supra, there is no necessity for impleading the elected candidates as party respondents.

10. Accordingly, granting the liberty as stated supra, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (co)

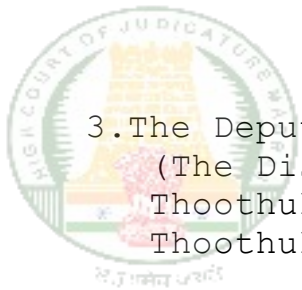
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Sub Assistant Registrar (CS)

To

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+1 CC to M/s.G.RAJENDRAN, Advocate (SR-69821[F] dated
19/06/2019)

+1 CC to M/s.K.K.SAMY, Advocate (SR-69829[F] dated 19/06/2019)

+1 CC to M/s.SPL GP (SR-70312[F] dated 20/06/2019)

+1 CC to M/s.M.PRABU, Advocate (SR-70319[F] dated 21/06/2019)

vsn

ORDER MADE IN
W.P (MD) NO.13742 OF 2019
and
W.M.P (MD) No.10291 and
10294 of 2019
19.06.2019

KM/ (02.07.2019) 5P 9C