



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.13855 of 2019

and

W.M.P.(MD)No.10370 to 10372 of 2019

S.Gunasekaran

: Petitioner

Vs.

- 1.The Committee,
Co-operative Election Cases,
East Central Zone,
Trichirappalli.
- 2.The State Tamil Nadu Co-operative Societies,
Election Commissioner,
No.273, Kamadenu super Market,
Annasali, Chennai - 600 018.
- 3.The District Election Officer / Deputy Registrar
of Co-operative Societies,
Thanjavur Circle.
- 4.The Election Officer,
Karuthatyankudi Dravida Co-operative Bank,
Karuthatyankudi,
Thanjavur District.
- 5.The Secretary,
Karuthatyankudi Dravida Co-operative Bank,
Thanjavur District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records pursuant to paper publication made in Malai Malar Daily News Paper dated 13.06.2019 and the list of eligible candidate published by Election Officer, dated 17.06.2019 and quash the same and further direct the respondents to issue fresh notification to conduct the election from the initial stage of filing nomination as per the order of the first respondent.



WEB COPY

For Petitioner : Mr.T.S.Mohamed Mohideen
For R-1 & R-3 : Mr.V.R.Shanmuganathan
Special Government Pleader
For R-2 : Mr.G.Rajendran

O R D E R

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

The petitioner has filed the present writ petition challenging the election notification published in the daily newspaper on 13.06.2019 and the list of eligible candidate published by Election Officer, dated 17.06.2019. Consequently, the petitioner seeks for a direction to the respondents to issue fresh notification to conduct the election from the initial stage of filing nominations as per the order of the first respondent Committee.

2.Heard Mr.Mohamed Mohideen, learned counsel appearing for the petitioner; Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 3 and the learned counsel appearing for the second respondent.

3.It is seen that in respect of the subject matter Society, election process was commenced earlier, which was put to challenge before the first respondent Committee by way of Petition No.85 of 2018, which in turn passed an order on 22.12.2018 directing the election Commission to issue necessary direction to the District Election Officer and the Society to conduct election in a free and fair manner by appointing a Government servant as election officer within a period of two months from the date of receipt of order of the Committee. The Committee also directed necessary police protection and surveillance of CCTV camera.

4.According to the writ petitioner, in view of the above said order passed by the Committee, the respondents are duty bound to conduct the election afresh not from the stage it was stopped at the time of filing the Petition No.85 of 2018. Therefore, it is contended that the present election notification issued to conduct the election from the stage it was stopped cannot be sustained.

5.We have given out careful consideration to the above said submissions and also perused the order passed by the Committee, which is extracted as hereunder:-

"The nutshell facts absolutely necessary for passing the order would run thus. The petitioner would air his grievances to the effect that even though he filed a valid nomination form, there was no scrutiny undertaken as scheduled and the election officer did not turn up for scrutinizing the nomination papers."



The election officer would narrate the facts to the effect that she received 55 nomination forms and out of 20 nomination papers were rejected by her accepting the remaining 35 nomination papers; then orders were received not to proceed further with the election process, in view of certain situation prevailed at the spot of election building.

The learned Government Pleader and the Advocate for the Election Commission in one voice would request for a fresh election to be continued from the stage at which it was stopped, with the 35 nomination forms received by the election officer.

We therefore direct the Election Commission to issue necessary direction to the District Election Officer and the Society to conduct the election in a free and fair manner to the Society by appointing a Government Servant as Election Officer within a period of two months from the date of issue of direction by the election Commission and the Election Commission has to issue such direction within a period of 15 days from the date of receipt of this order and report compliance. Necessary Police protection and surveillance of CCTV camera also may be ensured."

6. Perusal of the above said order of the first respondent Committee would show that the Committee has not given any finding with regard to the rejection of 20 nominations and accepting 35 nominations by the election officer. When such being the order passed by the election Commission without touching upon anything on the rejection or acceptance of the nominations as stated supra, we find that the present claim of the petitioner that fresh election need to be conducted by issuing a fresh notification, is not well founded, more particularly, when the first respondent Committee has not given any such direction. On the other hand, the first respondent Committee has only issued a direction to the election Commission to issue necessary direction to the District Election Officer to conduct the election in a free and fair manner by appointing a Government servant as election officer. It is now stated before us by the learned Special Government Pleader that the Co-operative Sub Registrar, Public Distribution System, Thanjavur, has been appointed as Election Officer and he is conducting the election to which the polling is scheduled on 22.06.2019.

7. When such being the factual position and that the Committee has also passed an order only to the effect as stated supra, we are not impressed upon the submissions of the learned counsel appearing for the petitioner, as if the election has to be conducted afresh by issuing fresh election notification. Even after the election, if the petitioner is having any grievance either against the process of election or the results of the same, it is always open to him to approach the Tribunal, after declaration of the results, as contemplated under Section 90 of the Tamil Nadu Co-operative Societies Act and therefore, this Court at this stage is not inclined to entertain the present writ petition.



8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (CS-III)

/ True Copy /

Sub Assistant Registrar (CS-)

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To

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5. The Secretary,
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Thanjavur District.

+1CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate
(SR-70074[F] dated 20/06/2019)

+1 CC to M/s.G.RAJENDRAN, Advocate (SR-70154[F] dated 20/06/2019)

+1 CC to M/s.SPL GP (SR-70470[F] dated 21/06/2019)

W.P. (MD) No.13855 of 2019
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