



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.4952 of 2019

and

W.M.P(MD)Nos.3933 and 3934 of 2019

V.Selvam

... Petitioner

Vs.

1.The State Election Commissioner,
Tamil Nadu Co-operative Societies Election Commission,
273, Anna Salai, Thenampettai,
Chennai.

2.The State Election Officer / Registrar,
Tamil Nadu Co-operative Societies Election,
Registrar of Co-operative Societies,
Kilpauk, Chennai.

3.The District Election Observer /
Joint Registrar of Co-operative Societies,
Pudukkottai,
Pudukkottai District.

4.The District Election Officer,
Deputy Registrar of Co-operative Societies,
Pudukkottai Circle,
Pudukkottai District.

5.The Returning Officer,
Pudukkottai District Central Co-operative Bank,
Pudukkottai, Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the impugned election notification on the file of the Fourth respondent vide Proceedings in Na.Ka.No.6657/2018/Koo.The1 dated 19.02.2019 pertaining to the Pudukkottai District Central Co-operative Bank, Pudukkottai and quash the same as illegal and further direct the first respondent to complete the election process for MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai and thereafter, to conduct election for the Pudukkottai District Central Co-operative Bank, Pudukkottai within stipulated time.



For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.G.Rajendran for R.1

Mr.K.Chellapandian,
Additional Advocate General,
assisted by
Mr.A.K.Baskarapandian
Special Government Pleader
for R.2 to R.5

* * * * *

ORDER

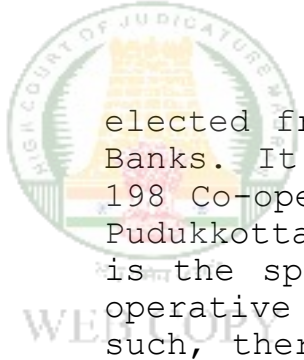
(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for the impugned election notification on the file of the fourth respondent vide Proceedings in Na.Ka.No.6657/2018/Koo.The1 dated 19.02.2019 pertaining to the Pudukkottai District Central Co-operative Bank, Pudukkottai and quash the same as illegal and further direct the first respondent to complete the election process for MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai and thereafter, to conduct election for the Pudukkottai District Central Co-operative Bank, Pudukkottai within stipulated time.

2. By consent, the writ petition is taken up for final disposal and disposed of by this order.

3. Heard Mr.S.C.Herold Singh, learned Counsel for the petitioner, Mr.G.Rajendran, learned Standing Counsel 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 5.

4. The petitioner in the affidavit filed in support of this writ petition would, among other things, aver that he is a member of MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai and his membership number is 3782 and he also claims that he is one of the shareholders in the Pudukkottai District Central Co-operative Bank, Pudukkottai, which carries on the business of granting loan and other benefits to the agriculturalists of Pudukkottai District. The petitioner would further state that all the Co-operative Societies are having shares in the said bank and it is also having individual membership and both the individual members and shareholders would constitute electorate to the said Bank in the event of election. 20 Directors have to be elected from the electorate of the said bank and out of which, 10 Directors from the membership of the Urban Stores, Employers Co-operative Society, Marketing Co-operative Society, Town Bank Co-operative Society and rest of the Directors have to be



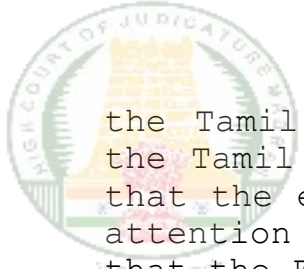
electd from the different Co-operative Societies and Co-operative Banks. It is also stated by the petitioner that the Directors of 198 Co-operative Societies can contest for the post of Director of Pudukkottai District Central Co-operative Bank, Pudukkottai and it is the specific case of the petitioner that in respect of 20 Co-operative Societies, elections were not at all conducted and as such, there is no due representation for the posts of 20 Directors of the said Pudukkottai Central Co-operative Bank.

5. The petitioner making challenge to the impugned order of the first respondent dated 19.02.2019, issued under Rule 52-A(9) of the Tamil Nadu Co-operative Societies Rules, 1988, issuing direction to proceed with the election process, except the cases in which stay orders are in operation, came forward to file this writ petition .

6. This petition was entertained on 01.03.2019 and this Court has also observed that the election result would be subject to the outcome of the writ petition and also directed the listing of the matter along with the batch of cases.

7. The respondents had filed a common counter affidavit denying the averments made in the affidavit filed in support of the writ petition and in paragraph No.6, would state that the election to the Society in question, began on 09.04.2018 and pursuant to the interim order of *status quo* in W.P(MD)No.7620 of 2018, election process was stopped and put to challenge before the Honourable Supreme Court in S.L.P(C)Nos.10051-10059 of 2018 and vide order dated 20.04.2018, it was ordered that the election process may continue but, results should not be declared and subsequently, the Special Leave Petitions came to be disposed of, directing this Court to take up the matters and dispose of the same and accordingly, W.P(MD)No.7620 of 2018, etc., batch of cases, were taken up for disposal and vide common order dated 03.08.2018, all the batch of writ petitions were disposed of and four Committees have been constituted headed by the Retired Judges of this Court to look into the complaints in respect of the 543 Co-operative Societies and to look after the complaints with regard to the other Societies and the Election Commission was also allowed to declare the results. The first respondent also took a stand that in the light of the interim order in operation, there is no legally constituted Board and there is a vacuum in managing affairs of the Societies falling in phase III and therefore, the conduct of the election is inevitable for the purpose of constituting democratically elected Boards, which is falling in Phase II as provided under Article 243 ZK(1) of the Constitution of India and Section 33(11)(a) of the Tamil Nadu Co-operative Societies Act, 1983 and hence, prays for dismissal of the writ petition, vacating the interim order.

8. Mr.S.C.Helrold Singh, learned Counsel for the petitioner has drawn the attention of this Court to Rules 51, 52, 52(1)(c) of



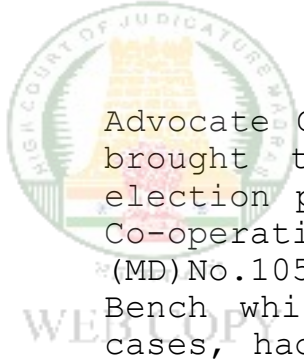
the Tamil Nadu Co-operative Societies Act, 1983 and Rule 52-A of the Tamil Nadu Co-operative Societies Rules, 1988 and would submit that the entire Rules have been given a go-by and also drawing the attention of this Court to the Election Schedule, further submitted that the Election Schedule is not in consonance with the said Rules and the said illegality strikes at the root of the matter and hence, prays for quashment of the impugned notification with a further direction to hold an election in respect of MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai.

9. Per contra, Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.A.K.Baskarapandian, Special Government Pleader appearing for the respondents 2 to 5, has drawn the attention of this Court to the common counter affidavit filed on behalf of the respondents and would submit that the election process of Co-operative Primary Agricultural Co-operative Credit Society and Co-operative Societies was put to challenge in W.P(MD) No.10588 of 2018 and the Honourable First Bench of this Court, while disposing of W.P(MD)No.7620 of 2018, etc., batch of cases, has also disposed of the said writ petition vide common order dated 03.08.2018 and constituted four Committees headed by the Retired Judges of this Court to look into the issue and before the said Committee insofar as the said Society's claim as to the illegality or otherwise of the election process was not pressed and it was withdrawn and one of the Committees headed by Justice R.S.Ramanathan, Judge (Retired) has permitted the Society to proceed with the election process and as such, there is no impediment to continue with the election process and hence, prays for dismissal of the writ petition.

10. The learned Additional Advocate General has also drawn the attention of this Court to the order dated 05.10.2018 made in W.P(MD)No.20384 of 2018 [**K.V.Jude Dev v. The Commissioner, Dairy Co-operative Societies Limited, Madhavaram Milk Colony, Chennai - 600 051 and others**] as well as the order dated 16.10.2018 made in W.P(MD)No.21633 of 2018 [**D.Sathaiya v. The Commissioner, Tamil Nadu Co-operative Societies Election Commission, Chennai - 18 and others**] and would submit that under similar facts and circumstances of the case, two Division Benches of this Court have dismissed the writ petitions, in and by which, similar grounds were raised and therefore, prays for dismissal of the writ petition with costs.

11. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

12. It is the vehement and forceful submission of the learned Counsel appearing for the petitioner that no election in the eye of law in respect of MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai, has been conducted at all and the said fact is seriously disputed by the learned Additional



Advocate General appearing for the respondents 2 to 5. It is also brought to the knowledge of this Court that challenging the election process in respect of MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai, a writ petition in W.P (MD)No.10588 of 2018 came to be filed and the Honourable First Bench while disposing of W.P(MD)No.7620 of 2018, etc., batch of cases, had disposed of the said writ petition and also constituted four Committees headed by the Retired Judges of this Court. Accordingly, the said issue pertaining to this Society came before the Committee headed by Mr.Justice R.S.Ramanathan, Judge (Retired) and it appears that the said claim/dispute pertaining to this Society has been not pressed.

13. In the order dated 05.10.2018 made in W.P(MD)No.20384 of 2018 [**K.V.Jude Dev v. The Commissioner, Dairy Co-operative Societies Limited, Madhavaram Milk Colony, Chennai - 600 051 and others**], the Division Bench of this Court, in paragraph No.24 observed that, "When elections were all conducted in 50 Co-operative Societies, for the sake of holding elections to the petitioner in the first phase of election in respect of two societies, we cannot make the elected Board of Directors in all Primary Milk Producers Co-operative Society to wait. That would also deprive them enjoying full tenure of five years".

14. In the order dated 16.10.2018 made in W.P(MD)No.21633 of 2018 [**D.Sathaiya v. The Commissioner, Tamil Nadu Co-operative Societies Election Commission, Chennai - 18 and others**], the Division Bench of this Court, in paragraph No.5, observed that " ... Hence, with the office bearers as on date, the election of the sixth respondent can go on. Even otherwise, if for any reason, there was no election to the seventh respondent society, the administration of the sixth respondent society, in accordance with by-laws cannot be stalled."

15. It is also pertinent to point out at this juncture that in the affidavit filed in support of this writ petition, there is no specific averment as to the non-holding of the election in respect of MM-396 Sampattuviduthi Agricultural Co-operative Credit Society, Pudukkottai. Even otherwise, the counter affidavit of the respondents would disclose that the election process took place and 11 nominations were filed and all the 11 nominations were accepted and final list of contesting candidates were declared and in the light of the order passed in W.P(MD)No.7620 of 2018, result of the election was not declared and the said interim order was put to challenge before the Honourable Supreme Court in S.L.P(C)Nos.10051-10059 of 2018, wherein the Honourable Supreme Court permitted the continuation of the election process with a rider that the results should not be declared and subsequently, it was disposed of by requesting this Court to dispose of W.P(MD)No.7620 of 2018 and <https://hcservices.mca.gov.in/services/> W.P (MD)No.7620 of 2018, etc., batch of cases, came to be disposed of, which also included the writ petition in W.P(MD) No.10588 of 2018, pertaining to the said Society and pursuant to



the said order, four Committees were constituted and before one of the Committees, the said election dispute was raised and not pressed and as such, there cannot be any impediment to continue with the further election process.

16. Whether the election in the eye of law took place, in our considered opinion, revolve around the adjudication on disputed question of facts and as such, this Court in exercise of jurisdiction under Article 226 of the Constitution of India cannot venture into the said exercise for the reason that there is an effective alternative remedy available to the petitioner under the provisions of the Tamil Nadu Co-operative Societies Act, 1983 and the Rules framed thereunder.

17. In the light of the reasons assigned above, this writ petition is dismissed. The interim order of *status quo* granted by this Court on 01.03.2019 is vacated. In view of the facts and circumstances, there shall be no order as to costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

dsk/rsb

To

- 1.The State Election Officer / Registrar,
Tamil Nadu Co-operative Societies Election,
Registrar of Co-operative Societies, Kilpauk, Chennai.
- 2.The District Election Observer /
Joint Registrar of Co-operative Societies,
Pudukkottai, Pudukkottai District.
- 3.The District Election Officer,
Deputy Registrar of Co-operative Societies,
Pudukkottai Circle, Pudukkottai District.
- 4.The Returning Officer,
Pudukkottai District Central Co-operative Bank,
Pudukkottai, Pudukkottai District.

+1CC TO MR.S.C.HEROLD SINGH, Advocate Sr. No.68031

+1CC TO MR.G.RAJENDRAN, Advocate Sr. No. 67764

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W.M.P(MD)Nos.3933 and 3934 of 2019
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