



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2019

CORAM:

**THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR**

W.P(MD)NO.5417 OF 2019

and

W.M.P(MD)Nos.4306 and 4307 of 2019

K.M.Akbar Ali,
Son of K.M.Mohamed Ibrahim,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.02740,
No.40-A, Khalifa Street,
Ilayangudi - 630 702,
Sivagangai District. :Petitioner

.vs.

- 1.The Election Commissioner,
Tamil Nadu State Cooperative Societies
Election Commission,
No.273, Anna Salai,
Teynampet,
Chennai - 600 018.
- 2.The Registrar,
State Election Officer,
Office of the Registrar of Cooperative Societies,
No.170, EVR High Road,
Kilpaukkam,
Chennai - 600 010.
- 3.The Deputy Registrar cum District Election Officer,
Cooperatives Sivagangai District,
Kanchhirangal,
Sivagangai-630 562.
- 4.The Managing Director cum Election Officer of the Society,
R27-Ilayangudi Cooperative Urban Bank Limited,
Kamarajar Road, Ilayangudi - 630 702,
Sivagangai District.
- 5.The General Manager,
R27-Ilayangudi Cooperative Urban Bank Limited,
Kamarajar Road, Ilayangudi - 630 702,
Sivagangai District.



6.P.A.Najumudeen(President),
Son of P.M.Ariff,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.03632,,
No.10A, Paramakudi Road
Ilayangudi - 630 702,
Sivagangai District.

7.M.A.S.E.Nasar(Vice President),
Son of Ebrahimsha,
R-27, Ilayangudi Cooperative Urban Bank Limited,
Pudur Branch 'A'Class Member No.15160,
No.43, Sowkath Ali Street,
Pudur,
Ilayangudi - 630 702,
Sivagangai District.

8.S.Abdul Razak(Director),
Son of Mohammed Sherif,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.03226,
No.28, Vijayan Street,
Pudur,
Ilayangudi - 630 702,
Sivagangai District.

9.P.K.A.Mohamed Ariff(Director),
Son of Abdul Majeed,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.01279,
No.5A, Tharagar Street,
Salaiyoor,
Ilayangudi - 630 702,
Sivagangai District.

10.N.Balasubramanian(Director),
Son of Navaneetha Kannan,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.10547,
15, Sakkarai Chettiyar Street,
Salaiyoor,
Ilayangudi - 630 702,
Sivagangai District.

11.K.A.K.Syed Khan Mohamed(Director)
Son of Kamalmohaideen,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.06955,
3A, Pettani Razak Street,
Ilayangudi - 630 702,
Sivagangai District.



12.P.Kumar(Director),
Son of Pitchai,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.07444,
42, Rasoola Samuthram,
Ilayangudi - 630 702,
Sivagangai District.

13.M.Sellammal(Director),
Wife of Malairaj,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.08389,
Keelayoor Colony,
Ilayangudi - 630 702,
Sivagangai District.

14.N.Selvi(Director),
Wife of Natarajan,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.04877,
No.12, Nethaji Street,
Ilayangudi - 630 702,
Sivagangai District.

15.Sabitha Begam(Director),
Wife of Jawahar Hussain,
R-27, Ilayangudi Cooperative Urban Bank Limited,
Pudur Branch, 'A'Class Member No.16737,
5, Korali Street,
Sodugudi,
Ilayangudi - 630 702,
Sivagangai District.

16.Aroj Banu(Director),
Wife of Mohamed Azim,
R-27, Ilayangudi Cooperative Urban Bank Limited,
'A'Class Member No.08539,
1, Syed Hussain Lane,
Salaiyoor,
Ilayangudi - 630 702,
Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the fourth respondent impugned Election Result Declaration dated 11.2.2019 of the R27, Ilayangudi Cooperative Urban Bank and to quash the same as illegal and arbitrary and consequently to direct the respondents 1 to 3 to conduct fresh election of R.27, Ilayangudi Cooperative Urban Bank, Ramrajai Road, Ilayangudi, Sivagangai District - Pin 630 702 within the time limit fixed by this Court.



For Petitioner

:Mr.A.D.Ganeshamoorthi

For Respondent-1

: Mr.G.Rajendiran

For Respondents
2 to 5:Mr.K.Chellapandian,
Addl.Advocate General,
assisted by Mr.A.K.Baskarapandian,
Special Government Pleader

O R D E R

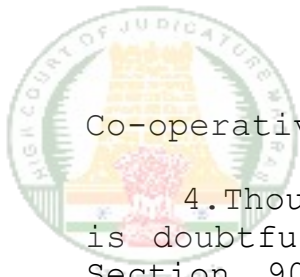
[Order of the Court was made by **S.S.SUNDAR.,J.**]

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned Election Result Declaration dated 11.2.2019 of the R27, Ilayangudi Cooperative Urban Bank., Ilayangudi, Sivagangai District and consequently to direct the respondents 1 to 3 to conduct fresh election for R.27, Ilayangudi Cooperative Urban Bank, Kamarajar Road, Ilayangudi, Sivagangai District - Pin 630 702.

2.The brief facts leading to the filing of the present Writ Petition are as follows:

The Petitioner participated in the election that was conducted to the society by filing nominations. It is now admitted before this Court that out of 44 nominations filed and accepted, election was conducted and 11 Board of Directors were elected. Though the election was conducted on 7.5.2018, the Petitioner raised an objection as to the validity of acceptance of nomination of two of the persons who contested in the election of Board of Directors. It is the case of the Petitioner that two of the contestants had closed their loan accounts only after the election was held on 7.5.2018. Therefore, the Petitioner raised an objection as to the validity of the election itself. It was for this reason election results were not declared. However, by the impugned proceedings, dated 11.2.2019, the fourth respondent had declared the result of the election. Challenging the same, the present Writ Petition has been filed, for the relief stated supra.

3.The learned counsel for the Petitioner submitted that a glaring irregularity though pointed out by the Petitioner, no decision was taken by the Election Officer at the relevant point of time regarding disqualification of the two members and now disqualified members have been elected and hence, the declaration of results should be set aside. It is well-settled that the dispute raised by the Petitioner involves disputed questions of facts and it will be appropriate for the third respondent to test the validity of the election. Since election dispute is raised by the Petitioner, it is open to the third respondent to consider the Petition filed by the Petitioner under Section 90 of the Tamil Nadu



Co-operative Societies Act.

4. Though a representation was submitted by the Petitioner, it is doubtful whether such representation is a petition filed under Section 90 of the Tamil Nadu Co-operative Societies Act. Hence liberty is given to the Petitioner to file a petition under Section 90 of the Tamil Nadu Cooperative Societies Act before the third respondent, who is the competent authority. On receipt of such representation/election petition filed by the Petitioner, the third respondent shall consider the same and after holding an enquiry, pass final orders on the election petition, within a period of two months from the date of receipt of the election Petition filed by the Petitioner.

5. With the above directions, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

vsn

To

1. The Election Commissioner,
Tamil Nadu State Cooperative Societies
Election Commission,
No.273, Anna Salai,
Teynampet,
Chennai - 600 018.
2. The Registrar,
State Election Officer,
Office of the Registrar of Cooperative Societies,
No.170, EVR High Road,
Kilpaukkam,
Chennai - 600 010.
3. The Deputy Registrar cum District Election Officer,
Cooperatives Sivagangai District,
Kanchhirangal,
Sivagangai-630 562.



4.The Managing Director cum Election Officer of the Society,
R27-Ilayangudi Cooperative Urban Bank Limited,
Kamarajar Road, Ilayangudi - 630 702,
Sivagangai District.

5.The General Manager,
R27-Ilayangudi Cooperative Urban Bank Limited,
Kamarajar Road, Ilayangudi - 630 702,
Sivagangai District.

1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-52199[F] dated
07/03/2019)

+1 CC to M/s.G.RAJENDRAN, Advocate (SR-52219[F] dated 07/03/2019)

+1 CC to M/s.SPL GP (SR-52595[F] dated 08/03/2019)

ORDER MADE IN
W.P (MD) NO.5417 OF 2019
and
W.M.P (MD) Nos.4306
and 4307 of 2019

07.03.2019

DS/ /SAR- (18.03.2019) 6P 9C