



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

CORAM:

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

**W.P(MD)NO.6290 OF 2019
and
W.M.P(MD)No.5014 of 2019**

A.Veeran

:Petitioner

.vs.

- 1.The Election Commission,
Tamil Nadu State Co-operative Society,
Anna Salai,
Chennai - 600 018.
- 2.The District Election Officer/
Deputy Registrar of Co-operative Society,
Sivagangai District,
Sivagangai.
- 3.The Election Officer,
No.573,Paganeri(PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.
- 4.L.Devadoss,
President,
No.573,Paganeri(PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.
- 5.C.Vijaya,
Vice-President,
No.573,Paganeri(PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.
- 6.V.Pandi,
Member,
No.573,Paganeri(PACCS) Primary Agricultural Co-operative



Loan Society,
Paganeri,
Sivagangai District.

7. Durgadevi,
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

8. Sumathi,
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

9. Malar,
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

10. Arumugam,
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

11. Ulaganathan,
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

12. Subramaniya Bharathi
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

13. Singaram,
Member,
No. 573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,



Sivagangai District.

14.Ramasamy
Member,

No.573,Paganeri(PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
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 entire records relating to the impugned declaration of the third respondent dated 15.2.2019 in electing the respondents 4 to 14 under Form 22 dated 11.2.2019 and Form II dated 15.2.2019 and quash the same and consequently to direct the respondents 1 to 3 to conduct recounting in the presence of the Petitioner as well as all the contestants of the Election to the No.573,Paganeri(PACCS) Primary Agricultural Co-operative Loan Society, Paganeri, Sivagangai District.

For Petitioner

:Mr.S.Veeranasamy

For Respondent-1

:Mr.G.Rajendran

For Respondents

:Mr.K.Chellapandian

2 and 3

Addl.Advocate General

assisted by

Mr.A.K.Baskarapandian,

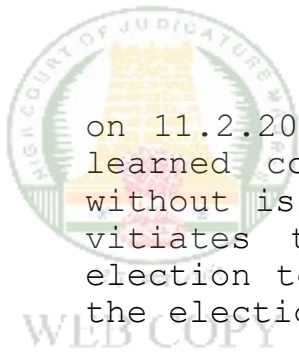
Special Govt.Pleader

O R D E R

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

The Petitioner is a contesting candidate, who participated in the election of No.573, Paganeri(PACCS) Primary Agricultural Co-operative Loan Society, Paganeri, Sivagangai District. It is not in dispute that the election was challenged earlier and the counting was deferred in view of pendency of election dispute in W.P (MD)No.7697 of 2018. Subsequently, the matter was referred to Honourable Committee on Co-operative Societies Election Cases, South Zone, Madurai. Since the complainant who challenged the election withdrew the application, the Honourable Committee directed to proceed with counting, after giving intimation to all the candidates.

2.The grievance of the Petitioner is that he is a participant in the said election and counting of vote took place on 11.2.2019 in his absence and that he received the notice, dated 8.2.2019 only on 11.2.2019 after counting was over and that the whole process of election is therefore vitiated, as the counting did not take place in his presence. The learned counsel for the Petitioner submitted that the notice, dated 8.2.2019 was sent to the Petitioner on 9.2.2019 and that the same was served on the Petitioner at 1.30 p.m.



on 11.2.2019, after counting was over. In these circumstances, the learned counsel for the Petitioner would submit that counting without issuing notice to the individual candidates, is illegal and vitiates the election process. It is not in dispute that the election to the Co-operative society concerned was held pursuant to the election notification.

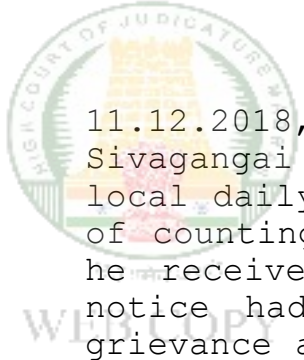
3. After completion of election, counting was deferred and the Honourable Committee on Co-operative societies Election Cases, South Zone, Madurai had passed an order, dated 11.12.2018 to proceed with the counting and the direction reads as follows:

"The Petitioner is present. Fourth respondent represented by Election Officer Mr.Thangamuthu. The Collector of Madurai and the Joint Registrar, Virudhunagar are not able to attend this enquiry due to their other urgent official work. The Petitioner filed this Writ Petition seeking a direction to conduct the election duly Free and Fair manner. The Election Officer Mr.Thangamuthu submitted that the election was over and the counting has to be conducted. He also submitted that, the Petitioner sent the letter dated 19.9.2018 stating that his intention to withdraw the case with a view to expedite the counting process. The Petitioner submitted that the counting may be directed to be done with the Police protection and also with a video coverage. The Election Officer Mr.Thangamuthu also admitted that CCTV Camera is available in the society and counting can be done under CCTV Camera coverage. He also submitted that Police protection will also be provided during counting process.

Considering the submission of the Petitioner and Election Officer Mr.Thangamuthu and also the fact that the Election was over and only the counting has to be conducted with the Police protection, the Election Officer is directed to proceed with counting of ballot papers for electing Board of Directors by providing the Police protection and also conducted under CCTV Camera coverage. The Election Commission is directed to conduct the counting in Free and Fair manner by allowing all the candidates in the counting process. Election Officer is further directed to follow all the instructions given by the Rules of Cooperative society and the provisions of Tamil Nadu Co-operative Societies Acts and Rules during the counting process. The Election Officer is further directed to intimate the date on which the counting process will take place to all the candidates who contested the Election. "

<https://hcservices.ecourts.gov.in/hcservices/>

4. Pursuant to the direction of the Honourable Committee, dated



11.12.2018, notice was issued by the District Election Officer, Sivagangai on 8.2.2019. The said notice was also published in the local daily on 9.2.2019. The notice specifically contains the date of counting, time and place. The contention of the Petitioner that he received notice only on 11.2.2018 may be true. Since public notice had already been issued, the Petitioner cannot have any grievance as he is supposed to know about the date of counting and no individual notice is mandatory as per the Rules. It is not the case of the Petitioner that he did not know the publication issued by the District Election Officer. In these circumstances, we do not find any reason to entertain this Writ Petition and thus the Writ Petition fails.

5. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Election Commission,
Tamil Nadu State Co-operative Society,
Anna Salai,
Chennai - 600 018.
2. The District Election Officer/
Deputy Registrar of Co-operative Society,
Sivagangai District,
Sivagangai.
3. The Election Officer,
No.573, Paganeri (PACCS) Primary Agricultural Co-operative
Loan Society,
Paganeri,
Sivagangai District.

+1cc to Mr.G.Rajendran, Advocate, SR.No. 54978

+1cc to M/s.Special Government Pleader, SR.No. 54935

W.P (MD) NO. 6290 OF 2019
and

W.M.P (MD) No. 5014 of 2019
18.03.2019

VSN

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