



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No. 7903 of 2019

and

W.M.P. (MD) No. 6253 of 2019

C.Baskar

: Petitioner

Vs.

1.The Hon'ble Committee,
2018 - Co-operative Societies Election Cases,
East Central Zone,
No.1, Fort Railway Station Road, Tiruchirappalli.

2.The Election Commissioner of
Co-operative Societies,
State of Tamilnau.

3.The Deputy Registrar of Co-operative Societies,
Pudukkottai.

4.No.15, Perungalur Primary Agricultural Credit Society,
Rep. by its Secretary, Pudukkottai.

5.Neelamegam

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the entire records pertaining to the order passed by the first respondent in Petition No.152 of 2018 and quash the same as illegal and unsustainable and may consequently forbear the respondents from interfering the office of the elected team headed by the petitioner in 2018 election in 15, Perungalur Primary Agricultural Co-operative Credit Society.

For Petitioner : Mr.K.P.Narayanakumar

For R-1 & R-3 : Mr.A.K.Baskara Pandian

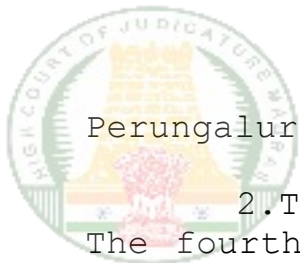
Special Government Pleader

For R-2 : Mr.G.Rajendiran

O R D E R

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

This writ petition is filed for issuance of writ of Certiorarified Mandamus to quash the order passed by the first respondent in Petition No.152 of 2018 and consequently restraining the respondents from interfering with the office of the elected team headed by the petitioner in 2018 in respect of No.15,



Perungalur Primary Agricultural Co-operative Credit Society.

2. The petitioner is a member of fourth respondent Society. The fourth respondent is a Co-operative Society having membership strength of 3280. The second respondent announced the election for the fourth respondent Co-operative Credit Society. Pursuant to the notification in respect of fourth respondent Society, on 02.04.2018, election was conducted. It is stated that the nomination papers were issued on 30.04.2018 and after verification of nomination, the election was conducted as per the schedule prescribed in the election notification. Though nominations were received from 30 persons, only 11 persons were elected. In such circumstances, one of the members of the Society viz., fifth respondent herein filed a petition before the election commission. It appears that the copy of the complaint that was originally filed by the fifth respondent before the election commission was submitted before the first respondent. The first respondent after finding that the petition dated 31.05.2018 along with postal receipt, confirm the position that a petition had been filed by the fifth respondent before the election officer on 31.05.2018 held that the first respondent has got jurisdiction to entertain the petition. It is against the order of the first respondent entertaining the complaint received from the fifth respondent, the present writ petition has been filed.

3. It is the contention of the writ petitioner that the first respondent failed to see that no petition was pending before the second or third respondents on the date of filing of the complaint before the first respondent. It is the case of the writ petitioner that no such complaint, dated 31.05.2018 was filed before the authority as it was projected before the first respondent.

4. The learned counsel for the petitioner relied upon the Judgment of the Division Bench of this Court wherein the Commission/ first respondent was directed to remit the matter in case there is dispute involving adjudication on factual issues. The learned counsel further pointed out that the first respondent has no jurisdiction to entertain the complaint which was not pending any time before the order was passed by this Court. On the factual submission that there was no petition pending on the date when the order was passed by the Division Bench, the first respondent/Commission has categorically found that the petition dated 31.05.2018 filed by the fifth respondent before the election commission was pending.

5. It is true that no complaint alleged to have been filed by the fifth respondent on 31.05.2018 was forwarded to the first respondent. However, the fifth respondent was able to demonstrate before the Commission that the petition dated 31.05.2018 was pending and that the first respondent has jurisdiction to



entertain the petition. As a matter of fact, the Hon'ble Committee gave opportunity to the election Commission to file statement in writing as to what order was passed on the petition dated 31.05.2018. Since there was no response, the Hon'ble Committee held that the complaint can be entertained. The Division Bench of this Court has not restricted the jurisdiction of Commission only to the complaint that was forwarded to the first respondent for disposal. Even if the first respondent is convinced that the petition filed by the complainant is pending as on the date when the date of the order passed by this Court, it can very well entertain and dispose of the matter on merits.

6. In that view of the matter, this Court do not find any merit in this writ petition. Accordingly, this writ petition is dismissed. It is always open to the petitioner to file his objection/counter and then contest the petition before the first respondent. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

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East Central Zone,
No.1, Fort Railway Station Road, Tiruchirappalli.

2. The Election Commissioner of
Co-operative Societies,
State of Tamilnau.

3. The Deputy Registrar of Co-operative Societies,
Pudukkottai.

+1 CC to M/s.G.RAJENDRAN, Advocate (SR-58779[F] dated
04/04/2019)

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-58998[F] dated
04/04/2019)

+1 CC to M/s.SPL GP (SR-59226[F] dated 05/04/2019)

RJ2

Order made in

W.P. (MD) No.7903 of 2019

Dated: 03.04.2019