



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.07.2019
CORAM:

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

W.P. (MD) No.1223 of 2019
and

W.M.P. (MD) Nos.1040 and 2858 of 2019

S.Parameshwari : Petitioner

Vs.

1.The State Election Commissioner,
Tamil Nadu Co-operative Societies
Election Commission,
273, Anna Salai, Thenampetai,
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,
Ramanathapuram District,
Ramanathapuram.

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

5.The Returning Officer,
Q186, Ramanathapuram District Consumer's
whole sale Co-operative Stores,
Vandikara Street, Ramanathapuram.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned election notification on the file of 4th respondent vide Proceeding No. Nil dated 10.01.2019 pertaining to the Co-operative election to Q816 Ramanathapuram District Consumers whole sale Co-operative Stores Ramanathapuram and quash



the same as illegal and further direct the 1st respondent to complete the election process for Kamuthi Agricultural Marketing Co-operative Credit Society Kamuthi and then after to conduct election for Q816 Ramanathapuram District Consumer's whole sale Co-operative Stores, Ramanathapuram within stipulated time.

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For Petitioner : Mr.S.C.Herold Singh

For R-1 : Mr.M.S.Palanisamy,
standing Counsel assisted
by Mr.G.Rajendran

For R-2 to R-5 : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.R.Balaramesh
Special Government Pleader(CO.OP)

O R D E R

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

This writ petition is filed challenging the election notification of the fourth respondent, dated 10.01.2019 pertaining to the co-operative Election to Q816 Ramanathapuram District Consumers whole sale Co-operative Stores Ramanathapuram, with a consequential direction to the 1st respondent to complete the election process for Kamuthi Agricultural Marketing Co-operative Credit Society, Kamuthi and thereafter to conduct election for Q816 Ramanathapuram District Consumer's whole sale Co-operative Stores, Ramanathapuram.

2.Heard the learned counsel appearing for the petitioner; the learned counsel appearing for the first respondent and the learned Additional Advocate General appearing for the respondents 2 to 5.

3.The main grievance of the petitioner is that election to Ramanathapuram District Consumers whole sale Co-operative Stores, can be conducted only after conducting 43 primary Co-operative Societies' Election. In other words, without conducting election to some of the primary Co-operative Societies, election to the District Co-operative Societies cannot be conducted.

4.The learned Additional Advocate General submitted that there are 193 primary co-operative societies, out of which, election to 171 Societies was over and only 22 Societies' election is pending. He further submitted that merely because some of the primary co-operative societies' election have not been conducted, <https://hservices.ecourts.gov.in/hservices/> all the election to the District Co-operative Societies. In support of his contention, the learned Additional



Advocate General has relied on a recent decision of the Division Bench of this court in W.P.(MD)No.4952 of 2019, dated 10.06.2019, wherein at paragraph Nos.13 to 16, it has been observed as follows:-

"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 accordingly, 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 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."

5. Considering the fact that the issue involved in this case is also similar to the one, which has been dealt with by the Division Bench of this Court in the above said case, where the Division Bench also referred to various other orders passed by the other Division Benches, we are of the view that the present writ petition need not be entertained further. Accordingly, without expressing any view on the merits of the matter, this writ petition is disposed of, however, by granting liberty to the aggrieved parties, if any, to work out their remedy by way of filing applications under Section 90 of the Tamil Nadu Co-operative Societies Act, after the declaration of the results. Interim order granted, if any, stands vacated. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

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Vandikara Street, Ramanathapuram.

+1cc to Mr.S.C.Herold Singh,Advocate, SR.No.75275

+1cc to Mr.G.Rajendran,Advocate, SR.No.75362

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