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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.4269 of 2019

and

W.M.P.(MD)Nos.3384; 3416 and 4183 of 2019

V.Rajendran

: Petitioner

Vs.

- 1.The Commissioner,
The Tamil Nadu State Co-operative Societies
Election Commission,
No.273, Kamadhenu Supermarket,
1st Floor, Annasalai, Chennai 600 018.
- 2.The Registrar of Co-operative Societies/
State Election Officer (Co-op),
No.170, N.V.Natarajan Maligai,
E.V.R.High Road, Kilpauk,
Chennai.
- 3.The Joint Registrar of Co-operative Societies/
State Election Officer,
Dindigul Region, Dindigul.
- 4.The Deputy Registrar/District Election Officer,
Co-operative Societies, Dindigul District.
- 5.The Managing Director,
Dindigul Central Co-operative Bank Ltd.,
Dindigul District.
- 6.The Secretary,
A-1255, Pallapatti Primary Agricultural
Co-operative Credit Society,
Pallapatti, Nilakottai,
Dindigul District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating with the notification in Na.Ka.No.6657 / 2018 / Koo.The.1 dated 19/02/2019 issued by the



1st respondent and quash the same as it is arbitrary and illegal as for as the election to the 5th respondent central bank is concerned and in consequence to conduct the said election after concluding the election of the 6th respondent society.

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For Petitioner : Mr.R.Suriyanarayanan

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

For R-2 to R-5 : Mr.P.H.Aravind Pandian
Additional Advocate General
and
Mr.K.Chellapandian
Additional Advocate General
assisted by
Mr.R.Balaramesh
Special Government Pleader

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 first respondent, dated 19.02.2019 pertaining to the co-operative Election to Dindigul Central Co-operative Bank Ltd., with a consequential direction to conduct the said election after concluding the election of the 6th respondent society.

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 Dindigul Central Co-operative Bank Ltd., can be conducted only after conducting the 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 457 primary co-operative societies, out of which, election to 439 Societies was over and only 18 Societies' election is pending. He further submitted that merely because some of the primary co-operative societies' election have not been conducted, that cannot stall 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 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."

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(P & A)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Commissioner,

The Tamil Nadu State Co-operative Societies

Election Commission,

No.273, Kamadhenu Supermarket,

1st Floor, Annasalai, Chennai 600 018.

2. The Registrar of Co-operative Societies/

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6.The Secretary,
A-1255, Pallapatti Primary Agricultural
Co-operative Credit Society,
Pallapatti, Nilakottai,
Dindigul District.

+1CC TO MR.G.RAJENDRAN, Advocate Sr. No.75359

+1CC TO MR.R.SURIYANARAYANAN, Advocate Sr. No. 75300

W.P. (MD) No. 4269 of 2019

15.07.2019

AL(CO)

TR (26.07.2019) 5P 9C