



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.5474 of 2019

Mathiyalagan

: Petitioner

Vs.

1. The Chairperson,
The Committee on co-operative Election cases,
East Central Zone, Trichirappalli.
 2. The Co-operative Election Commissioner,
Tamil Nadu State Co-operative Societies Election
Commission,
273, Kamadhenu Super Market 1st floor,
Anna Salai, Chennai - 18.
 3. The District Election Officer/
The Deputy Registrar of Co-operative Societies,
96 Main Road, Lalgudi,
Trichy District.
 4. The Electoral Officer,
R-1045 Venkadajalapuram Primary Agriculture
Co-operative Credit Society,
Lalgudi Taluk,
Trichy 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 in pertaining to the impugned order of the first respondent dated 05.01.2019, vide his proceeding in Petition No.191 of 2018 and quash the same as illegal and consequently directing the first respondent to entertain this petition to the file of the Committee on Co-operative Election Cases, East Central Zone, Trichirappalli.



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W.P.(MD)No.5474 of 2019

For Petitioner : Mr.T.Vadivelan
For R1, R3 & R4 : Mr.V.R.Shanmuganathan
Special Government Pleader
For R-2 : Mr.G.Rajendran

O R D E R

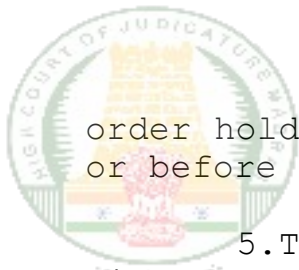
[Order of the Court was made by
K.RAVICHANDRABAABU, J.]

This writ petition is filed challenging the order of the first respondent Committee dated 05.01.2019. Consequently, the petitioner seeks for a direction to the first respondent to entertain the petition and pass orders on the same.

2.Heard the learned counsel appearing on both sides and perused the materials placed before this Court.

3.It is seen that the election to Venkatachalapuram Primary Agricultural Co-operative Credit Society was conducted in the month of April 2018. The very same writ petitioner filed W.P.(MD) No.18421 of 2018 and sought for declaration to declare that the election conducted by the respondents to the said Society as null and void based on his representations, dated 10.04.2018 and 26.05.2018. The grievance of the writ petitioner was that the respondents conducted the election without following the procedure contemplated under the relevant rules and that non-receiving of the petitioner's nomination without assigning any reason was also illegal.

4.When the said writ petition was taken up for hearing on 24.08.2018, the Division Bench of this Court, after hearing both parties, dismissed the writ petition, however, by granting liberty to the writ petitioner to approach the appropriate forum under Section 90 of the Tamil Nadu Co-operative Societies Act. It is seen that thereafter the matter was brought before the Division Bench under the caption 'For Being Mentioned' and by an order dated 09.10.2018, the Division Bench made it clear that the earlier order passed on 24.08.2018 will not stand in the way of the Committee constituted from going into the objection raised by the petitioner, if the 'same is pending' and covered by the order of the Division Bench. Thereafter, the writ petitioner sought an interference by the first respondent Committee through representation dated 26.10.2018. The Committee passed the impugned



order holding that no petition was pending before the Committee on or before 01.10.2018.

5.The learned counsel for the petitioner contended that in view of the clarification issued by the Division Bench of this Court in W.P.(MD)No.18421 of 2018, the first respondent Committee ought to have entertained the petitioner's representation and consider his grievance.

6.We are not inclined to accept the above contention and probe into the matter further for the very reason that in the clarificatory order issued by the Division Bench of this Court itself it was made very clear that the Committee can go into the objection raised by the petitioner only if the same is pending and covered by the order of the Principal Bench of this Court, dated 03.08.2018 made in a batch of cases in W.P.(MD)No.7526 of 2018 etc.

7.On the other hand, the fact remains that the petitioner's writ petition in W.P.(MD)No.18421 of 2018 seeking for declaration to declare that the election conducted by the respondents to the said Society as null and void was already dismissed by the Division Bench by granting liberty to the petitioner to work out his remedy under Section 90 of the said Act. Therefore, as rightly pointed out by the first respondent Committee nothing is pending before the Committee insofar as the petitioner's grievance is concerned, so as to enable such Committee to consider the same and pass orders on merits. Therefore, the petitioner is not entitled to take advantage of the clarification issued by the Division Bench on 09.10.2018 and seek for disposal of his application filed thereafter by giving an impression as if his objection is already pending before the first respondent Committee. Since the Division Bench has already given liberty to the petitioner to work out his remedy under Section 90 of the Tamil Nadu Co-operative Societies Act, it is for the petitioner to work out such remedy by filing appropriate application before the concerned authority.

8.Once again by granting such liberty to the writ petitioner, this writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



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+1 CC to M/s.G.RAJENDRAN, Advocate (SR-79755[F] dated
05/08/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-79946[F] dated
06/08/2019)

W.P. (MD)No.5474 of 2019
05.08.2019

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