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W.P.(MD) No.17710 of 2019 & 22942 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.P. (MD) No.17710 of 2019
and
W.P. (MD) No.22942 of 2018
and
W.M.P. (MD) Nos.20835 & 20836 of 2019**

G.Arul Davidraj ... Petitioner in W.P.(MD) No.17710 of 2019
G.Lazer ... Petitioner in W.P.(MD) No.22942 of 2018
-vs-

- 1.The Election Commissioner
Tamilnadu State Co-op. Societies
Election Commission
273, Anna Salai, Teynampet
Chennai-18
- 2.The District Election Officer /
Deputy Registrar of Co-op. Societies
Cheranmahadevi Circle
Tirunelveli District
- 3.The Election Officer / Special Officer
EE442, Kavalkinaru Primary Agricultural
Co-operative Credit Society Ltd.,
Kavalkinaru, Radhapuram Taluk
Tirunelveli District ... Respondents in W.P.(MD)
No.17710 of 2019
- 4.The Election Commissioner of
State Co-operative Societies
Election Commission Office
273, Anna Salai
Thenampettai
Chennai-600 018



5.The Deputy Registrar /
District Election Officer
Office of the Co-operative Societies
Cheranmahadevi
Tirunelveli District

6.The Election Officer / Special Officer
EE442, Kavalkinaru Primary Agricultural
Co-operative Credit Society Ltd.,
Kavalkinaru, Radhapuram Taluk
Tirunelveli District

... Respondents in W.P.(MD)
No.22942 of 2018

PRAYER (in W.P.(MD) No.17710 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondent Nos.1 and 2 to consider the representation dated 16.07.2019 made by the petitioner to publish the results for the elections conducted on 22.11.2018 for post of board of directors for EE442 Kavalkinaru Primary Agricultural Co Operative Credit Society Ltd.

PRAYER (in W.P.(MD) No.22942 of 2018): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent's election notification in Na.Ka.No.517 / 2018/Sa Pa dated 13.11.2018 and quash the same as it violate the provisions in Rule 52(5)(a) of Tamilnadu Co-operative Society Rules, 1988 and consequently direct the respondents to conduct the board of directors election for EE442 Kavalkinaru Primary Agricultural Co-operative Credit Society, Radhapuram Taluk, Tirunelveli District, by strictly following the above rules within the period stipulated by this Court.

For Petitioner : Mr.T.Sundaravadanam
(in W.P.(MD) No.17710 of 2019)

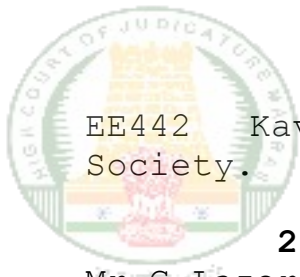
For Petitioner : Mr.Ananth C.Rajesh
(in W.P.(MD) No.22942 of 2018)

For Respondents : Mr.G.Rajendran for R1
(in both W.Ps.) Mr.A.K.Baskarapandian
Special Government Pleader for R2 & R3

C O M M O N O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

These writ petitions have been filed pertaining to the election, which was conducted for electing the office bearers for



EE442 Kavalkinaru Primary Agricultural Co-operative Credit Society.

2. The petitioner in W.P.(MD) No.22942 of 2018 is one Mr.G.Lazer and the petitioner in W.P.(MD) No.17710 of 2019 is one Mr.G.Arul Davidraj.

3. The petitioner Mr.G.Lazer came before this Court by way of a writ petition seeking for writ of certiorarified mandamus to quash the election notification, dated 13.11.2018, issued by the Deputy Registrar / District Election Officer, Cheranmahadevi, Tirunelveli District, on the ground that it violates the provisions of Rule 52(5)(a) of the Tamilnadu Co-operative Society Rules, 1988. The Court entertained the writ petition and noted that the petitioner by then filed the nomination to contest in the election. The Court permitted the petitioner to participate in the scrutiny of the nominations. The petitioner's nomination was rejected as invalid as he was facing surcharge proceedings. This fact was suppressed by the petition in W.P.(MD) No.22942 of 2018. The Court, after issuing such a direction, issued a further direction to the Election Officer to count the votes and submit the same before the Court. However, misunderstanding the scope of the order, the Election Officer counted the votes and published the results. Consequently, *suo motu* contempt action was initiated against him and the contempt petition was closed by the Court after imposition of heavy costs.

4. Now, the petitioner Mr.G.Arul Davidraj is before this Court seeking for a direction to publish the results.

5. In fact, this is a fit case, where cost is to be imposed on the petitioner Mr.G.Lazer in W.P.(MD) No.22942 of 2018 for suppressing the fact that he was ineligible even for filing nomination. The order of surcharge passed against the officer concerned has been confirmed by the learned Principal District Judge, Tirunelveli, by Judgment dated 02.06.2017 in C.M.A.(CS) No.21 of 2016. The petitioner Mr.G.Lazer has filed C.R.P.(NPD) (MD) No.2485 of 2018, which fact was also suppressed. Thus, a person, who was ineligible even to contest in the election, has misused the Court proceedings for which he has to be penalized. However, considering the fact that the earlier Division Bench had passed certain interim directions at his behest, we do not wish to do so.

6. For the above reasons,

- (i) W.P.(MD) No.22942 of 2018 is dismissed.
- (ii) W.P.(MD) No.17710 of 2019 is allowed.
- (iii) The respondents 1 and 2 in W.P.(MD) No.17710 of 2019 are directed to publish the results of the elections conducted on



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W.P.(MD) No.17710 of 2019 & 22942 of 2018

22.11.2018 for the post of Board of Directors of EE442 Kavalkinaru Primary Agricultural Co-operative Credit Society Ltd., within a period of two weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar (CS)

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To:

1.The Election Commissioner,
Tamilnadu State Co-op. Societies
Election Commission,
273, Anna Salai, Teynampet,
Chennai-18.

2.The District Election Officer /
Deputy Registrar of Co-op. Societies,
Cheranmahadevi Circle,
Tirunelveli District.

3.The Election Officer / Special Officer,
EE442, Kavalkinaru Primary Agricultural
Co-operative Credit Society Ltd.,
Kavalkinaru, Radhapuram Taluk,
Tirunelveli District.

+1 CC to M/s.T. SUNDARAVADANAM, Advocate (SR-84991[F] dated 04/09/2019)

+1 CC to M/s.G.RAJENDRAN, Advocate (SR-85054[F] dated 04/09/2019)

+1 CC to M/s.SPL GP (SR-85344[F] dated 05/09/2019)

W.P. (MD) No.17710 of 2019
and

W.P. (MD) No.22942 of 2018
and

W.M.P. (MD) Nos.20835 & 20836 of 2019
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