



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.09.2019
CORAM:**

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**W.P. (MD) No.19354 of 2019
and W.M.P. (MD) Nos.15785 and 15943 of 2019**

M.Santhanam

... Petitioner

-vs-

- 1.The Registrar,
Tamil Nadu State Co-operative Societies,
Chennai.
 - 2.The Commissioner,
Tamil Nadu State Co-operative Societies Election Commission,
Chennai - 18.
 - 3.The District Collector,
Sivagangai District.
 - 4.The Joint Registrar/Election Officer,
Sivagangai District Co-operative Societies,
Sivagangai District.
 - 5.The Secretary,
N.N.586 Palayanur Primary Agriculture Co-operative Society,
Palayanur,
Thiruppuvanam Post & Taluk,
Sivagangai District.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No.1 to 4 to cancel the election conducted scheduled from 28.08.2019 to 09.09.2019 and consequently to direct the respondents to conduct election in a fair manner on the basis of the representation dated 30.08.2019.

For Petitioner	: Mr.C.Muthu Saravanan for M/s.M.Ramesh
For Respondents 1, 3 to 5	: Mr.A.K.Baskarapandian Special Government Pleader
For 2 nd Respondent	: Mr.G.RAJENDRAN



O R D E R

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

Heard Mr.C.Muthu Saravanan, learned counsel appearing for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader, who accepts notice on behalf of the respondents 1, 3 to 5 and Mr.G.Rajendran, learned Standing Counsel, who accepts notice on behalf of the 2nd respondent.

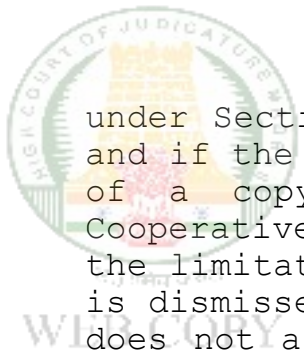
2.By consent of both sides, this Writ Petition is taken up for final disposal.

3.The petitioner seeks for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to cancel the election conducted from 28.08.2019 to 09.09.2019 and to direct the respondents to conduct election in a fair manner on the basis of his representation dated 30.08.2019.

4.The prayer sought for by the petitioner cannot be granted for more than one reason. The Writ Court will not exercise its jurisdiction to set aside the election, especially on the facts pleaded in the Writ Petition. The only exception carved out is when there is monstrous situation warrants interference and not otherwise. Therefore, the Writ Court cannot set aside the election conducted. The elections have already been completed and list of selected candidates have also been published. The case of the petitioner is that two candidates suffered disqualification. They are not implemented as parties to the Writ Petition. Therefore, the petitioner was directed to implead them as parties, for which, W.M.P.(MD) No.15943 of 2019 has been filed. We will consider, whether order has to be passed in the said writ miscellaneous petition.

5.The learned Special Government Pleader appearing for the respondents 1 and 3 to 5 would submit that no objections were received when the list of valid nominations were published and the person, who drawn the election schedule was the Election Officer and the grievance of the petitioner is that two candidates are defaulters. It is further submitted that when Electoral Roll was published no objections were submitted and therefore, the valid list of Voter List was published by the Electoral Officer and the Election Officer has no jurisdiction to deviate from the names found in the Voter List, so prepared by the Electoral Officer.

6.This issue has to be adjudicated by the petitioner before the appropriate forum. Therefore, we hold that the Writ Petition is not maintainable. In the result, the Writ Petition is dismissed as not maintainable. The petitioner is granted liberty to file application



under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 and if the same is filed within three weeks from the date of receipt of a copy of this order, the concerned Deputy Registrar of Cooperative Society shall entertain the same without reference to the limitation. Consequently, connected W.M.P.(MD) No.15785 of 2019 is dismissed. The question of impleading the elected candidates also does not arise because what is being challenged is the validity of the Voters List. Hence, W.M.P.(MD) No.15943 of 2019 is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

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 - 5.The Secretary,
N.N.586 Palayanur Primary Agriculture Co-operative Society,
Palayanur,
Thiruppuvanam Post & Taluk,
Sivagangai District.
- +1 CC to Mr.G.RAJENDRAN, Advocate (SR-85990[F] dated 09/09/2019)
+1 CC to Spl.GP (SR-86133[F] dated 10/09/2019)
+1 CC to Mr.M.RAMESH, Advocate (SR-86311[F] dated 12/09/2019)

W.P. (MD) No.19354 of 2019
and W.M.P. (MD) Nos.15785 and 15943 of 2019
09.09.2019

sj

MK (27.09.2019) 3P 9C

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