



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.09.2019**

CORAM:

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

W.P(MD)NO.20303 OF 2019

and

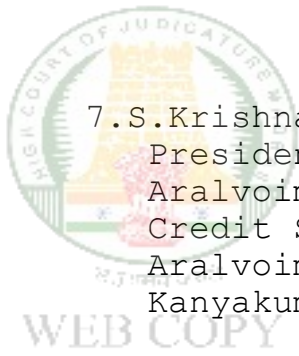
W.M.P(MD)Nos.16909,16912 and 16914 of 2019

S.George Newton

:Petitioner

.vs.

- 1.The Chief Election Commissioner,
Tamil Nadu State Cooperative Societies,
Anna Salai,
Teynampet,
Chennai - 600 018.
- 2.The Registrar of Cooperative Societies,
NV Natarajan Maligai,E.V.R.Periyar Salai,
Kilpauk,Chennai - 600 010.
- 3.The Joint Registrar of Cooperative Societies,
Kanyakumari Region, at Nagercoil,
Kanyakumari District.
- 4.The Deputy Registrar of Cooperative Societies,
Nagercoil Circle, Nagercoil,
Kanyakumari District
(now acting as District Election Officer,
Kanyakumari District Cooperative Union Limited, K.N.103).
- 5.The Sub-Registrar of Cooperative Societies cum
Field Officer, Thovalai, Nagercoil Circle, Nagercoil,
Kanyakumari District
(now acting as Election Officer,
Kanyakumari District Cooperative Union Limited, KN-103)
- 6.The Sub-Registrar of Cooperative Societies cum
Field Officer, Thuckalay Circle, Kalkulam Taluk,
Kanyakumari District.
(now acting as Election Officer,
Kanyakumari District Cooperative Union Limited, KN-103)



7.S.Krishnakumar,
President,
Aralvoimozhi Primary Agriculture Cooperative
Credit Society, KN-77,
Aralvoimozhi- 629 702
Kanyakumari District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned final list of Elected Board of Directors of the Kanyakumari District Cooperative Union Limited, KN 103(i.e., Form 22), dated 12.09.2019 published by the sixth respondent Election Officer and to quash the same insofar as it includes the name of the seventh respondent S.Krishnakumar as one of the Board of Directors in it.

For Petitioner : Mr.T.Cibi Chakkraborthy

For Respondent-1 : Mr.G.Rajendran
Standing Counsel

For Respondents : Mr.K.Chellapandian
2 to 6 Addl.Advocate General
assisted by
Mr.A.K.Baskarapandian
Special Govt.Pleader

For Respondent-7 : Mr.D.ShanmugarajaSethupathi

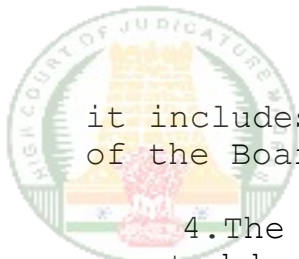
O R D E R

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

Heard Mr.T.Cibi Chakkraborthy, learned counsel appearing for the Petitioner, Mr.G.Rajendran, learned Standing Counsel, who accepts notice for the first respondent and Mr.K.Chellapandian, learned Additional Advocate General (assisted by Mr.A.K.Baskarapandian, learned Special Government Pleader), who accepts notice for the respondents 2 to 6 and Mr.D.Shanmugaraja Sethupathi, learned counsel, who accepts notice on behalf of the seventh respondent.

2.By consent of either side, the Writ Petition is taken up for final disposal.

3.The Petitioner by way of this Writ Petition, seeks for issuance of a Writ of Certiorari to quash the final list of Elected Board of Directors in Kanyakumari District Co-operative Union Limited, KN 103(i.e., Form 22), dated 12.09.2019 published by the sixth respondent Election Officer and to quash the same insofar as



it includes the name of the seventh respondent S.Krishnakumar as one of the Board of Directors.

4.The relief sought for in this Writ Petition cannot be granted by this Court on account of the settled legal position that once election process has commenced, the Court cannot interdict the process. Admittedly as per the election schedule, the President has to be elected and result is to be published on 21.9.2019. It is the submission of the learned counsel for the Petitioner that the seventh respondent suffers from disqualification for even being a primary member of the seventh respondent society, in which, he is a President. It is submitted that there is conflict that the seventh respondent is running a Private Finance Company in the name and style of 'Balaji Finance' at Anna Bus stand, Nagercoil. It is pointed out that at the earliest point of time, one of the members of the seventh respondent society has given objection in this regard on 24.6.2019, much prior to the election schedule being commenced. Though the official respondents received objections, no action was initiated, which insisted the Petitioner to approach this Court in W.P(MD)No.17084 of 2019 to direct his representation to be considered and action to be initiated against the seventh respondent/fourth respondent in the said Writ Petition. The said Writ Petition is still pending and no counter affidavit was filed by the respondents and in the meantime, election schedule was commenced and the 7th respondent was nominated to represent the society in the election to be conducted for the Board of Directors of the District Union. It appears that the election schedule has been published and after receiving objections, final voters' list has been drawn and nominations were filed on 9.9.2019, Scrutiny of nominations took place on 11.9.1999 and last date for withdrawal of nominations was on 12.9.2019 and final voters list was published on 12.9.2019 and the elections were held on 16.9.2019 and results have been published on 17.9.2019. Subsequently election for the post of President of the Union was held on 17.09.2019 and result is to be declared on 21.9.2019.

5.It is submitted by the learned counsel for the Petitioner that no election was conducted but is only a selection. There is a big cartel. Therefore, it is submitted that there is inherent error in the election of the seventh respondent and he should not be permitted to function as Director of the Union or even he is selected as President, he should not be permitted to act as the President of the Union.

6.The learned Additional Advocate General appearing for the respondents 1 to 6 submitted that objection was raised by one other person, which was considered by the Election Officer and the same has been rejected on 5.9.2019. Furthermore, it is submitted that more than three stages have been crossed and at this juncture, this Court taking note of the legal position, will not interfere in the



7.The learned counsel for the seventh respondent would submit that the licence for running the finance business stands in the name of the wife of the seventh respondent and he is not in any way connected with the said business.

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8.After elaborately hearing the learned counsel for the parties, we have to point out the legal position that as under normal circumstances, the Writ Court should not interfere in the election process. However, exceptions have been carved out, considering the monstrous situation that has been arisen. In the instant case, exercise of our jurisdiction at this juncture is not required, since the election have already been concluded on 16.09.2019 itself. Therefore, we are unable to express any opinion on the submissions made by the Petitioner in this regard. However, we wish to point out that the Petitioner is not left without any remedy and he can very well approach the first respondent for necessary relief. If according to the Petitioner's objections, the seventh respondent suffers from inherent disqualification, even to be a member of the seventh respondent society, that aspect can always be gone into and if the Petitioner choses to approach the said authority, the said authority shall consider such claim in the manner known to law.

9.The Writ Petition stands disposed of, on the ground that the power cannot be exercised by this Court, at this juncture. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

/ True Copy /

Sub Assistant Registrar(CS-)

To

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+1 CC to M/s.T.CIBI CHAKRABORTHY, Advocate
(SR-88261[F] dated 20/09/2019)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate
(SR-88163[F] dated 20/09/2019)

ORDER MADE IN
W.P (MD) NO.20303 OF 2019
and
W.M.P (MD) Nos.16909,16912
and 16914 of 2019
20.09.2019

vsn

ES/03.10.2019/5P/9C