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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**

and

THE HONOURABLE **MRS.JUSTICE R.THARANI**

Writ Petition (MD).No.25058 of 2019

and

W.M.P(MD) .Nos.21653 and 21666 of 2019

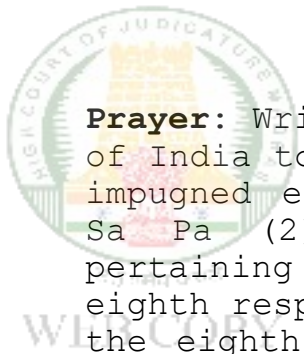
M.Murugan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep., by the Principal Secretary,
Co-operation, Food and Consumer Protection Department,
Fort.St.George, Chennai-09.
- 2.The Secretary,
Committee on Co-operative Societies Election Cases,
South Zone, Madurai.
- 3.The Tamil Nadu State Co-operative Societies
Election Commission,
Rep., by the Chief Election Commissioner,
No.273, Kamadhenu Supermarket,
(1st Floor), Anna Salai,
Teynampet, Chennai-600 018.
- 4.The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
170, E.V.R.Periyar High Road,
Kilpauk, Chennai-10.
- 5.The Joint Registrar of Co-operative Societies,
Kanyakumari Division,
Nagercoil, Kanyakumari District.
- 6.The Deputy Registrar/District Election Officer,
Nagercoil Region Co-operative Societies,
Nagercoil, Kanyakumari District.
- 7.The Election Officer,
Y.160, Vadaseri Co-operative Stores Ltd.,
Vadasery, Nagercoil,
Kanyakumari District.
- 8.The Special Officer,
Y.160, Vadaseri Co-operative Stores Ltd.,
Vadasery, Nagercoil,
Kanyakumari District.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned election notification under proceedings No.Na.Ka.650/2018 Sa Pa (2), dated 19.11.2019 issued by the sixth respondent pertaining to conducting election to the office bearers of the eighth respondent Society and to quash the same as illegal as far as the eighth respondent Society is concerned and further direct the respondents to conduct fresh election to the eighth respondent Society after accepting the nomination of the petitioner.

For Petitioner	: Mr.K.R.Laxman
For Respondents	: Mr.K.Chellapandian Additional Advocate General assisted by Mr.A.K.Baskarapandian Special Government Pleader (for R1, R2 R4 to R8) Mr.G.Rajendiran, Standing Counsel (for R3)

O R D E R

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

Heard Mr.K.R.Laxman, learned counsel appearing for the petitioner, Mr.K.Chellapandian, learned Additional Advocate General for the respondents 1, 2, 4 to 8 and Mr.G.Rajenran, learned Standing Counsel for the third respondent.

2.This writ petition has been filed challenging the order passed by the Hon'ble Committee on Co-operative Societies Election Cases, dated 27.06.2019. The arguments of the petitioner before the Hon'ble Committee was that the proceedings initiated against the petitioner under Section 34(6) of the Tamil Nadu Co-operative Societies Act, 1993 vide order dated 15.04.2015, has been stayed by this Court in W.P(MD).No.6375 of 2015, dated 22.04.2015 and therefore, the committee should not have disqualified the petitioner from contesting the election. This issue was considered by the Hon'ble committee and has given a specific findings as regards eviction of the petitioner. It is found in paragraph Nos.3 and 4 of the order passed by the Hon'ble Committee which we fully endorse. The reason for disqualification of the petitioner is on account of surcharge passed under Section 87 of the Act, though the amount is stated to have been remitted to different persons. Since the amount has been remitted, such an order was passed. The surcharge is the subject matter of challenge in CMA(CS).No.6 of 2015 before the Principal District Judge, Kanyakumari at Nagercoil. However, there is no order of stay granted by the Principal District Judge, Kanyakumari at Nagercoil. Even assuming that there is an order of stay, still the order of surcharge cannot be stayed. It is only the implementation of the order of surcharge and recovery alone can be stayed. Therefore, unless the petitioner steers himself clear of the eviction, the question of keeping exonerated does not arise. Furthermore, the argument to keep the election pending till the



also acceded to as the surcharge proceedings was initiated in the year 2014.

3.Thus we find that there is no error in the order passed by the Hon'ble Committee. Hence, the Writ Petition stands dismissed.
No costs.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary,
Co-operation, Food and Consumer Protection Department,
Fort.St.George, Chennai-09.
- 2.The Secretary,
Committee on Co-operative Societies Election Cases,
South Zone, Madurai.
3. The Chief Election Commissioner,
Tamil Nadu State Co-operative Societies Election Commission,
No.273, Kamadhenu Supermarket, (1st Floor), Anna Salai,
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- 4.The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
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Kilpauk, Chennai-10.
- 5.The Joint Registrar of Co-operative Societies,
Kanyakumari Division,
Nagercoil, Kanyakumari District.
- 6.The Deputy Registrar/District Election Officer,
Nagercoil Region Co-operative Societies,
Nagercoil, Kanyakumari District.
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Y.160, Vadaseri Co-operative Stores Ltd.,
Vadasery, Nagercoil,
Kanyakumari District.
- 8.The Special Officer,
Y.160, Vadaseri Co-operative Stores Ltd.,
Vadasery, Nagercoil, Kanyakumari District.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-101338[F] dated 26/11/2019)

+1 CC to M/s.G. RAJENDRAN, Advocate (SR-101884[F]

+1 CC to M/s.SPL GP (SR-101973[F] dated 27/11/2019)

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SMA/08/01/2020/3P/12C