

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.5897 of 2020
and W.M.P No.6907 of 2020

S.Venkidupathi

..Petitioner

vs.

1. The State Election Commissioner,
Tamil Nadu State Co-operative Societies Election Commission,
Kamadheni Super Market Building,
No.273, Scheme road, Subbarayan Nagar,
Teynampet,
Chennai - 600 018.
2. The District Election Officer/Deputy Registrar,
Coimbatore District.
3. The Election Officer,
K 1853, Allapalayam Primary Agricultural
Co-operative Credit Society,
Allapalayam, Annur Taluk,
Coimbatore District.
4. Mr.Soundarajan,
The Election Officer,
K 1853, Allapalayam Primary Agricultural
Co-operative Credit Society,
Allapalayam, Annur Taluk,
Coimbatore District.

5. Arumugam

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to postpone the election scheduled on 06.03.2020 for petitioner's society named K 1853, Allapalayam Primary Agricultural Co-operative Credit Society and to take necessary steps to conduct a fair election by removing the name of dead and bogus members in the voter list and verifying the identity of voters of petitioner's society thoroughly on the date of polling and to cover the entire election process through video coverage.

For Petitioner : Mr.N.Ponraj
For Respondents: Mr.M.S.Palanisamy for R1
Mr.L.P.Shanmuga Sundaram
Special Government Pleader
for R2 and R3

ORDER

This writ petition has been filed for issuance of a writ of mandamus directing the respondents to postpone the election that is scheduled to be held on 06.03.2020.

2.The case of the petitioner is that he has filed his nomination for the post of Director in the 3rd respondent Society. The election was announced during April 2018 and the nominations were called for and the final list of candidates was also announced. The election was postponed since there was an apprehension of law and order problem. Thereafter, once again an attempt was made to conduct the election in September 2018. That election was also stopped on the apprehension of law and order problem.

3.The election was rescheduled and a Notification was issued on 28.02.2020 and this Notification has been challenged on the ground that sufficient notice was not given to the candidates for their campaign. That apart, the voters list that was published does not contain the address and therefore, it is apprehended that there will be bogus voting. That apart, allegations have also been made against the Election Officer on the ground that he is biased.

4.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

5.The learned Special Government Pleader appearing on behalf of the Co-operative Society submitted that sufficient time has been granted for campaign and the date has been fixed for the polling, since that was the stage at which the previous election got stalled. The learned counsel further submitted that the election can be conducted by a different Election Officer since bias has been alleged against the present Election Officer. The learned counsel further submitted that insofar the voters list is concerned, each voter will be verified with the register maintained by the Society and therefore there will be no chances of any impersonation or bogus voting.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.It is seen from the proceeding of the 1st respondent dated 25.02.2020 that direction has been given to the 3rd respondent Society to start the election process from the stage of polling. This was the stage at which the previous two elections stood cancelled. Therefore in exercise of the power under Rule 52 (18) (c) of the Co-operative Societies Rules, 1988, this direction has been given by the 1st respondent to the Society. Therefore, there is no controversy with regard to the stage at which the election can be commenced.

8.The next issue that has been raised by the petitioner is that the time given for the candidates to campaign is very short and the Notification is issued on 28.02.2020 by fixing the election date as 06.03.2020. This Court is inclined to give some more time for the candidates to campaign in the election. This should be done considering the fact that the earlier elections got cancelled in the year 2018 and the present election is starting from the stage of polling after nearly one and half years. Therefore, in the interest of justice, more time should be given to the candidates to campaign during elections.

9.Insofar as the allegations made against the Election Officer, the Society itself has volunteered to change the Election Officer and therefore, the grievance expressed by the petitioner has been attended.

10.Insofar the voters list is concerned, the Society has assured that the individual voters will be verified with the register maintained by the Society and no bogus voting will be permitted.

11.In view of the above, this writ petition is disposed of with the following directions:

- (a)The 3rd respondent is directed to fix the date of polling on 13.03.2020 between 08.00 a.m. to 05.00 p.m. The revised Notification shall be issued immediately and the same shall be intimated to all the candidates and the voters.
- (b)A new Election Officer shall be appointed by the Society to conduct the election on 13.03.2020 and The identity of each voter shall be verified with the register maintained by the Society and bogus voting shall be completely avoided.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The State Election Commissioner,
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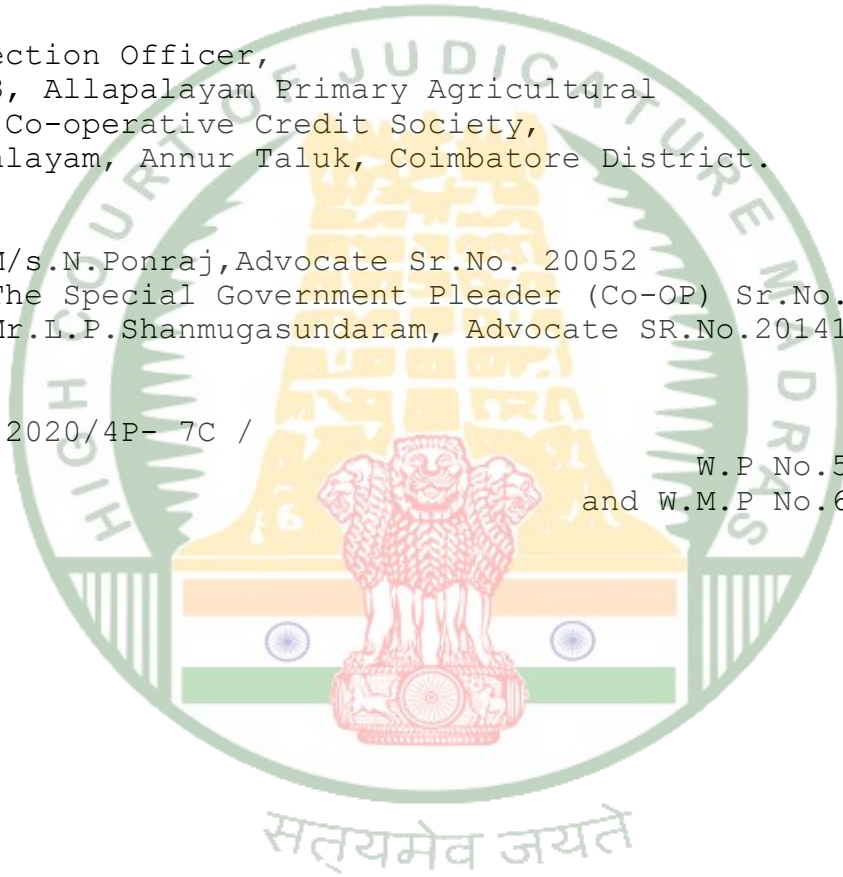
+1 cc to M/s.N.Ponraj, Advocate Sr.No. 20052

+1 cc to The Special Government Pleader (Co-OP) Sr.No. 20197

+1 cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.20141

AKM/06.03.2020/4P- 7C /

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