

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
21.02.2020	26.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
and

THE HONOURABLE MR.JUSTICE T.RAVINDRAN
W.P. (MD) No.3496 of 2020

and

W.M.P. (MD) Nos.2962 & 2965 of 2020

P.Periya Karuppan

... Petitioner

-VS-

1.State of Tamil Nadu

Rep.by its Principal Secretary
Department of Animal Husbandry
Dairying and Fisheries, Chennai-9

2.The Election Commissioner

State Co-operative Election Commission
273, Anna Saalai, Teynampet, Chennai-18

3.The District Election Officer

cum the Deputy Registrar (Dairying)
O/o.the District Election Officer
cum the Deputy Registrar
Aavin Complex, Sathamangalam
Sivagangai Road, Madurai District

4.A1301 Madurai District Cooperative

Milk Producers Cooperative Union
Rep.by the General Manager
Aavin Complex, Sathamangalam
Sivagangai Road, Madurai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.No.2942/2019/Ku.the.1 dated 11.02.2020 on the file of the respondent No.2 and quash the same as illegal in so far calling for the election to the board of directors who were elected through proper election on 15.12.2018 and consequently direct the respondent No.2 to conduct the election for the vacant post of president and 6 directors of the A1301 Madurai District Cooperative Milk Producers Cooperative Union within the time period stipulated by this Court.



For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader for R1
Mr.K.Chellapandian
Additional Advocate General

assisted by Mr.E.Marees Kumar for R3 & R4

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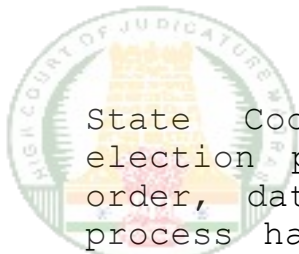
O R D E R

T.RAVINDRAN, J.

Seeking to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order, dated 11.02.2020, on the file of the second respondent, to quash the same as illegal insofar the calling for the election to the Board of Directors, who were elected through proper election on 15.12.2018, and consequently, to direct the second respondent to conduct the election for the vacant post of President and 6 Directors of the A1301 Madurai District Cooperative Milk Producers Cooperative Union, within the time stipulated by this Court, the writ petition has been preferred by the petitioner.

2. The writ petition stems from the facts that the petitioner and others had been elected on 15.12.2018 as the Directors of A1301 Madurai District Cooperative Milk Producers Cooperative Union and as their term of Office would expire only on 14.12.2023, hence, according to the petitioner, the second respondent / Election Commissioner, State Cooperative Election Commission had erred in calling for the election of all the posts of Directors for the abovesaid Union by way of the impugned order and therefore, sought to quash the impugned order.

3. After hearing the learned counsel appearing for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader, who takes notice for the first respondent and Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.E.Marees Kumar, learned counsel, who takes notice for the respondents 3 and 4, the parties are not in dispute that the erstwhile Madurai District Cooperative Milk Producers Cooperative Union had been bifurcated and resultantly, Theni District Milk Producers Cooperative Union had been formed by virtue of G.O.Ms. (2D) No.22, dated 22.08.2019 and therefore, when the Societies forming the erstwhile Madurai District Cooperative Milk Producers Cooperative Union had also come to be separated and when it is not clear thereafter as to for which Society, the petitioner claims to be elected and when it is further noted that the Government had mooted to conduct the election for all the Societies and resultantly, the election schedule had been formulated and following the same, the second respondent / Election Commissioner,



State Cooperative Election Commission had communicated the election program of all the Societies by way of the impugned order, dated 11.02.2020 and when it is seen that the election process had commenced from the date of issuance of the aboveaid impugned order and also particularly, from 15.02.2020 by way of issuing the election notification, in the light of the abovesaid undisputed facts, when it is seen that the petitioner has only come forward with the writ petition on 19.02.2020 and furthermore, when it is further noted that even in the writ petition preferred by the petitioner and others in W.P.(MD) No.19221 and 20010 of 2019, this Court by a common order dated 04.11.2019, had directed the Election Commissioner, Tamil Nadu Cooperative Societies Election Commission, to take appropriate action for notifying the election at the earliest date and in such view of the matter, when following the same, the election program had been formulated by way of the impugned order and the election notification had come to be issued, in such view of the matter, we are of the considered view that the election process, which had been already commenced could not be stalled at the behest of the petitioner by putting forth a claim of seeking continuation of the office of the erstwhile Madurai District Cooperative Milk Producers Cooperative Union and when the abovesaid claim of the petitioner itself is not clear as above pointed out, particularly, after the bifurcation of the abovesaid Union, we are not inclined to put any bottleneck in the conduct of the election by issuing a writ as prayed for by the petitioner.

4. In addition to that, when as pointed out by the learned Additional Advocate General, the Honourable Supreme Court in the decision in the case of **N.P.Ponnuswami vs. Returning Officer**, reported in **1952 SCR 218** as well as in the decision, dated 24.08.2018, in Civil Appeal No.8515 of 2018 [**West Bengal State Election Commission and others vs. Communist Party of India (Marxist) and others**], has adumbrated that the election process once commenced, it should not be interdicted mid stage and if at all any challenge has been putforth to the validity of the election, the same has to be addressed only by adopting the remedy of the election petition as provided under the governing statute and the position of law being above, we are not inclined to accede to the prayer sought for by the petitioner at this stage of the matter and therefore, we hold that if at all the petitioner has got any valid cause to be agitated qua the election of the erstwhile Madurai District Cooperative Milk Producers Cooperative Union, he is at liberty to approach the appropriate election Forum as provided under law.



5. In the light of the abovesaid factors, the writ petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

1. The Principal Secretary,
Department of Animal Husbandry
Dairying and Fisheries,
State of Tamil Nadu,
Chennai-9.

2.The Election Commissioner
State Co-operative Election Commission
273, Anna Saalai, Teynampet, Chennai-18

3.The District Election Officer
cum the Deputy Registrar (Dairying)
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Milk Producers Cooperative Union
Rep.by the General Manager
Aavin Complex, Sathamangalam
Sivagangai Road, Madurai District

+1 CC to M/s.E.MAREES KUMAR, Advocate (SR-8612[F]
+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-9146[F]
+1 CC to M/s.SPL GP (SR-9352[F]

ORDER IN

W.P. (MD) No.3496 of 2020

and W.M.P. (MD) Nos.2962 & 2965 of 2020

26.02.2020

SS(CO)

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