



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

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THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No. 9277 of 2020

and

W.M.P. (MD) No. 8452 of 2020

N. Jegan

... Petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
Madurai Saragam,
Madurai.

2. The Co-operative Sub Registrar / Field Officer,
Vadipatti Saragam,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of declaration, declaring the meeting held on 23.03.2020 by the second respondent in pursuance of the paper publication of the second respondent dated 17.03.2020 published in news paper on 19.03.2020 as null and void.

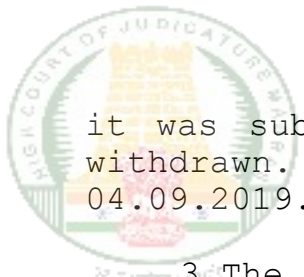
For Petitioner : Mr. G. Prabhu Rajadurai,
for M/s. J. Anandkumar

For Respondents : Mr. C. Ramar,
Additional Government Pleader.

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The petitioner is the elected President of A1183, Karupatti Primary Agricultural Cooperative Thrift Society. He was declared elected vide proceedings dated 11.08.2018. The Board comprised 11 members. No confidence motion was sought to be moved against the petitioner. In fact, show cause notice was issued to the petitioner by the first respondent. The petitioner gave his explanation. Thereafter, the first respondent vide order dated 09.07.2019 directed that the meeting will be convened. Pursuant to the same, on 26.07.2019, meeting was proposed to be convened. The petitioner, hence, filed W.P. (MD) No. 16600 of 2019. When it came up for disposal,



it was submitted by the respondents that the notice itself stood withdrawn. Recording the same, the writ petition was closed on 04.09.2019.

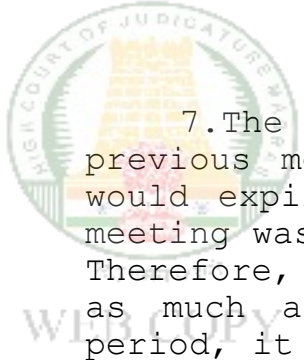
3. The petitioner's counsel pointed out that as per Rule 62(2), no special meeting of the Board shall be convened unless a requisition in writing is signed by not less than two-thirds of the existing members of the Board. In this case, Board comprised 11 members, but only 7 members had signed in the requisition. This was obviously below the two-thirds' strength. Since the requisitionists knew the fate of the writ petition, they had chosen to withdraw the same.

4. After the writ petition was closed by recording the said development, the requisitionists once again gave notice for moving no confidence motion. Once again the very same process was initiated and a special meeting was also held on 21.09.2019. It was declared in the special meeting that the petitioner was removed from the post of the President. Questioning the same, the petitioner filed W.P.(MD)No.21356 of 2019 and the same was allowed vide order dated 28.01.2020. The learned Single Judge of this Court held that since the resolution did not fulfill the requirement set out in Rule 62(2), the meeting as well as the resolution passed on 21.09.2019 were declared as null and void.

5. The requisitionists apparently have a never say die attitude. Once again they moved no confidence motion and on 23.03.2020, the petitioner was for the second time removed from the post of the President. This is under challenge in this writ petition.

6. The learned counsel appearing for the writ petitioner initially raised two contentions. According to him, the impugned proceedings are vitiated because of violation of the statutory requirements set out in Rule 62(2) and 62(8) of the Tamil Nadu Co-operative Societies Rules, 1988. While the matter was taken up for final hearing, the learned counsel for the petitioner fairly brought to my notice that he would not press the first ground. This is because, though the Board comprised 11 members, one member had passed away and therefore, the number of requisitionists was not less than the two-thirds strength. However he would contend that the entire proceedings are hit by Rule 62(8). Rule 62(8) reads as under:

"62(8) If the no confidence motion is not carried by such a majority referred to in sub-rule (6), or if the meeting cannot be held for want of the quorum referred to in sub-rule (5), no requisition for bringing any subsequent motion expressing want of confidence in the same office-bearer shall be received until after the expiry of six months of the date of the meeting."



7.The learned counsel for the petitioner pointed out that the previous meeting was held on 21.09.2019. The six months' period would expire only on 21.03.2020. In this case, even though, the meeting was held on 23.03.2020, requisition was moved on 26.02.2020. Therefore, the petitioner's counsel would strongly contend that in as much as the requisition was brought within the six months' period, it was bad in law and since subsequent proceedings are based on the invalid requisition, the same also will have to be consequently declared as null and void.

8.The petitioner's contentions have been strongly controverted by the learned Additional Government Pleader appearing for the respondents. The respondents have also filed a detailed counter affidavit.

9.I carefully considered the rival submissions and went through the materials on record.

10.No doubt Rule 62(8) states that if no confidence motion is not carried by such a majority referred to in Sub-Rule (6), no requisition for bringing any subsequent no confidence motion shall be received until expiry of six months of the date of the meeting.

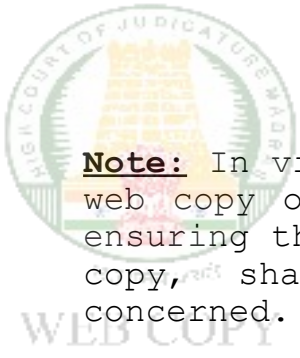
11.This pre-supposes that the special meeting of the Board was convened based on a valid requisition for moving no confidence motion. In the case on hand, the earlier requisition itself was invalid, because it was signed by not less than two-thirds of the existing members. Therefore, the meeting that was earlier held on 21.09.2019 itself was declared as null and void. Since the earlier meeting was not validly convened, I am of the view that Rule 62(8) of the Act will not kick-in.

12.The petitioner was elected to the post only because he had the confidence of the majority of the members. Now there are only 10 members in the Board. Out of them, seven are against him. For the last one year they have been opposed to him. We are a democracy. Democracy is basically a game of numbers. The petitioner had already lost the number game. Earlier, law was on his side. Destiny let him down by causing death of one member. Today, law also has failed to come to his rescue. I can only express my sympathy. There is no merit in this writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Deputy Registrar of Co-operative Societies,
Madurai Saragam,
Madurai.
2. The Co-operative Sub Registrar / Field Officer,
Vadipatti Saragam,
Madurai District.

+1 CC to the Spl GP (SR-15691, 15849[F] dated 02/09/2020)

W.P. (MD) No. 9277 of 2020

CS: 14.09.2020 4P 4C