



WEB COPY

W.P (MD) No.13739 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.13739 of 2020

and

W.M.P (MD) Nos.11399, 11401 and 11402 of 2020

A.Meenakshi Sundaram

... Petitioner

Vs.

1.The Election Commissioner,
Tamil Nadu State Co-Operative Societies,
Election Commissionerate,
No.273, Anna Salai, Tenampet,
Chennai - 600 018.

2.The District Election Officer,
Deputy Registrar of Co-Operative Societies,
Paramakudi,
Ramanathapuram District.

3.The Election Officer,
A 1324 Kamudhi Agriculture Procedures,
Co-operative Marketing Society,
Kamudhi,
Ramanathapuram District.

... Respondents

Prayer: Writ 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 election notice passed by the second respondent vide his proceedings in Na.Ka.No.2471/2018/Sa Pa, dated 14.09.2020 and quash the same as illegal and consequently direct the respondents to conduct the election of A1324 Kamudhi Agriculture Producers Co-Operative Marketing Society, from the stage of scrutiny of nomination, at which stage the election was stopped as required under Rule - 52 (18) (C) of the Tamil Nadu Co-Operative Societies Rule, 1988.

For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondents : Mr.K.Chella Pandian,
Additional Advocate General,
assisted by Mr.Muthu Geethaiyan,
Special Government Pleader



ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

The petitioner, challenging the Election Notification, dated 14.09.2020 issued by the second respondent / the District Election Officer, Deputy Registrar of Co-Operative Societies, Paramakudi, Ramanathapuram District, has filed the present writ petition.

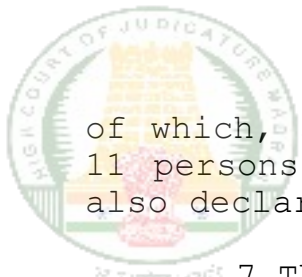
2.The petitioner was the President of A-1324 Kamudhi Agriculture Producers Co-Operative Marketing Society, Kamudi, Ramanathapuram District from the year 2013 to 2018 and he also held the post of Director of the said Society. While so, the first respondent issued an Election Notification, dated 15.09.2018, for electing Directors, President and Vice President to the said Society. During the election process, 44 nominations have been filed. The petitioner has also filed his nomination and it was scrutinised on 08.10.2018. While being so, the third respondent issued a Notice dated 08.10.2018, withholding the said election process. Subsequently, the third respondent issued the impugned Election Notice, dated 14.09.2020 to conduct the election afresh. Aggrieved over the same, the present writ petition has been filed.

3.Heard Mr.C.Mayilvahana Rajendran, learned Counsel for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.Muthugeethaiyan, learned Special Government Pleader appearing for the respondents.

4.The learned Counsel for the petitioner submitted that the election is stopped as per Rule 52 (18) (a) of the Tamil Nadu Election Co-Operative Societies Rules and once the election is stopped, it should be resumed from the stage at which the election was stopped, but contrary to the Rules, the impugned Election Notification has been issued contemplating fresh election. Therefore, the learned Counsel for the petitioner prayed for setting aside the impugned Election Notification, dated 14.09.2020.

5.Mr.K.Chellapandian, learned Additional Advocate General submitted that there was a law and order problem and therefore, the earlier election could not be continued and it was stopped. Further, the Election Commission is the competent authority to take a decision in this connection.

6.The learned Additional Advocate General further submitted that the contention of the petitioner that the election should be resumed from the stage at which it was stopped, cannot be accepted for the reason that as per Rule 52 (18)(c), the proceedings with reference to the election so stopped shall be resumed from the stage it was stopped or resumed at an earlier stage as may be decided by the Election Commission and as such, the impugned Election Notification for conducting fresh election was issued in line with the Rules. Further, 16 nominations were received and accepted, out



of which, 5 nominations were withdrawn and therefore, the remaining 11 persons were elected as Board of Directors and this result was also declared on 08.10.2020 itself.

7.This Court paid its anxious consideration to the rival submission and perused the materials placed on record.

8.The main contention of the petitioner is that as per the Tamil Nadu Co-Operative Societies Rules, the stopped election should be resumed from the stage at which it was stopped. At this stage, it would be relevant to refer Rule 52 (18) of the Tamil Nadu Co-Operative Societies Rules, which reads as follows:

"52.Election of Board of Members:

18 (a) If at any stage of the election, the proceedings are interrupted or obstructed by any riot or open violence or if it is not possible to proceed with the election on account of any natural calamity, the Election Officer shall power to stop the election, recording his reasons for such action.

(b) the fact that the election has been so stopped shall be immediately announced and reported to the District Election Officer, the State Election Officer and the Election Commission forthwith by the Election Officer.

(c)Proceedings with reference to the election so stopped shall be resumed from the stage it was stopped or resumed at an earlier stage as may be decided by the Election Commission."

9.The above said Rule also provides the election be resumed at an earlier stage, which shall be decided by the Election Commission. When the Rule provides for an election to be conducted from its earlier stage, there is no mistake committed by the respondent in conducting a fresh election. That apart, the election was also conducted, wherein 16 nominations were received, 5 have withdrawn and the remaining were elected as Board of Directors. Therefore, the writ petition is liable to be dismissed.

10.In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

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+1 CC to M/s.GP (SR-24854[F] dated 10/12/2020)

W.P (MD) No.13739 of 2020
08.12.2020

TP (CO)
AP (18/12/2020) 4P 5C