

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.3277 of 2020

ORDER:

This writ petition is filed seeking the following relief :-

“....to issue an appropriate writ, order or directions more particularly one of the nature of writ of Mandamus declaring the order dt.9/2/2020 rejecting the nomination of the petitioner for the post of Director, PACS Ltd Kodapgal by the 4th respondent and subsequent order dt.10/02/2020 declaring the 5th Respondent as Elected Director by the 4th respondent as illegal, arbitrary and violative of Arts.14, 16 and 21 of Constitution of India and set aside the same and further direct the 4th Respondent to conduct Elections for the post of Director, PACS Ltd Kodapgal as per the notification dt.03/02/2020 allowing the petitioner to contest the election”.

Heard Sri T.V.Kalyan Singh, learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondents.

The petitioner is challenging the action of the respondents in rejecting his nomination on the ground that he is having more than two children.

Learned counsel appearing for the petitioner submits that only two nominations are filed and as the nomination of the petitioner is rejected, the 5th respondent was elected unanimously without conducting any elections.

Learned Government Pleader appearing for the respondents submits that in view of the law laid by the Hon'ble Apex Court in *N.P.PONNUSWAMI Vs. RETURNING OFFICER, NAMAKKAL*¹, once the election notification is issued, the writ petition cannot be

¹ AIR 1952 SC 64

entertained under Article 226 of the Constitution of India. However, the petitioner can approach the competent Tribunal against the action of the respondents, after declaration of results, under Section 61(3) of the Co-operative Societies Act, 1964.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the election Notification was issued on 03.02.2020 and the elections were scheduled to be held on 15.02.2020. The present writ petition is filed after conducting elections and after declaration of results. Therefore, in view of the law laid down by the Apex Court in the aforesaid judgment, this court cannot entertain this writ petition.

Accordingly, this writ petition is dismissed. However, the petitioner is given liberty to approach the Election Tribunal to challenge the elections in accordance with the Rules. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 17-02-2020
Prv

