

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3780 OF 2020

ORDER:

Heard Sri P.V.Ramana, learned counsel for the petitioner, learned Special Government Pleader attached to the office of the learned Advocate General and Sri P.Srinivas, learned Standing counsel for respondent Nos.2 and 3.

This writ petition is filed seeking the following relief :-

“.....Writ of Mandamus declaring the action of the Official Respondents 1 to 5 in not implementing the Rule 22 of Telangana Cooperative Societies Act and Rules 1964, with amendments issued in G.O.ms.No.1 A & C Dept dt.4.1.2018 for preparation of voters list for conducting elections to Managing Committee of District Cooperative Central Bank Ltd, Khammam, by not preparing and publishing voters list, inviting objections and deleting the name of the petitioner without communicating voters list to raise any objections and proceeding further for issuing election notification in utter disregard to Rule 22 as illegal, arbitrary and violation of Provisions of Act and Rules of Telangana Cooperative Societies, 1964 and Article 19 of Constitution of India and contrary to right contest in election provided under Constitution of India (FR) and consequently direct the respondent not to conduct elections to the Managing Committee to the District Cooperative Cooperative Central Bank Ltd, Khammam till the list of voters is prepared including the name of the petitioner and communicated inviting objections and to pass such other.....”

It has been contended by the petitioner that the respondents are trying to conduct elections without preparing the voters list in accordance with Rule 22 of Telangana Cooperative Society Rules, 1964 (for short 'the Rules'). He further contends that though he is

an elected President of the respondent No.2, the respondents have deliberately not included his name in the voters list.

Learned counsel for the petitioner contends that contrary to Rule 22(6) of the Rules, the respondents are conducting elections without publishing the voters list. Therefore, he contends that appropriate orders be passed in the writ petition directing the respondents to first prepare the voters list, publish the voters list and then conduct elections in accordance with the Rules.

Learned Special Government Pleader appearing for respondents contends that the Election Notification has been issued today i.e. 20.02.2020 and in view of the law down by the Hon'ble Supreme Court in ***N.P.Ponnuswami vs. Returning Officer, Namakkal***¹, when once the Election notification is issued, the only remedy available to the petitioner is to challenge the Elections in accordance with the Rules.

The relevant portion of the order reads as follows:

“(1) The right to vote or stand as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it.

(2) Strictly speaking, it is the sole right of the Legislature to examine and determine all matters relating to the election of its own members, and if the legislature takes it out of its own hands and vests in a special tribunal and entirely new and unknown jurisdiction, that special jurisdiction should be exercised in accordance with the law which creates it.”

Therefore, he contends that in view of the law laid down by the Hon'ble Supreme Court stated supra, the writ petition is not maintainable.

¹ AIR 1952 SC 64

Learned Standing counsel appearing for the 2nd respondent had contended that though the petitioner is an elected President, his name is not included in the voters list because of the surcharge proceedings pending against him.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties is of the considered view that when once the Election Notification is issued, the question of entertaining the writ petition does not arise in view of the law laid down by the Hon'ble Supreme Court, stated supra. However, the petitioner is at liberty to challenge the Election Notification and Elections by filing Election Petition in accordance with the Rules.

With the above observations, this writ petition is dismissed.
No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 20-02-2020
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