

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3784 OF 2020

ORDER:

Heard Sri S.Rahul Reddy, 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 No.6.

This writ petition is filed seeking the following relief :-

“.....Writ of Mandamus declaring the action of the Respondents in proposing to undertake elections to the 6th Respondent Cooperative Central Bank without publishing the voters list as per the procedure contemplated under rule 22(6) of the Telangana Cooperative Societies, rules 1964, as arbitrary, illegal, without jurisdiction, violative of Article 14 of the Constitution of India and violative of principles of natural justice and consequently direct the Respondents to not conduct any election to the 6th Respondent Cooperative Central Bank without following the due procedure contemplated under Rule 22(6) of the Telangana Cooperative Society Rules, 1964 and 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 Telangana Cooperative Society Rules, 1964 (for short 'the Rules'). He further contends that he is an elected President of the 6th respondent society and as the tenure has come to an end, the respondents have extended the period till August, 2020. In spite of extension being granted to the managing committee of the petitioner society, the respondents have 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 laid 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.

Learned Standing counsel appearing for the 6th respondent had contended that since the tenure of the managing committee of

¹ AIR 1952 SC 64

the petitioner society was expired, the question of including the name of the petitioner in the voters list does not arise.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties is of the considered view that when the 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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