

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.3956 of 2020

ORDER

This writ petition is filed seeking the following relief:

“to issue an appropriate writ, order or direction more particularly one in the nature of the Writ of Mandamus and declare the action of respondent authorities particularly the Chief Executive officer-Cum-Election Officer, Nalgonda District Cooperative Central Bank Limited Nalgonda/Respondent No.5 in not adding the petitioner society name in the B-Category voters list of Cooperative Central Bank, Nalgonda Elections to be held on 28.02.2020 in spite of having eligibility and direction of the District Cooperative Officer, dated 22.02.2020 as illegal, arbitrary and against the principles of natural justice and in contrary to the bye-laws of District Cooperative Central Bank Limited, Nalgonda, consequently to direct the 5th respondent to consider the 4th respondent direction letter dated 22.02.2020 as well as petitioner's request letter dated 22.02.2020 to add the petitioner's name in the Final B-class Voter list prepared for the Elections of Cooperative Central Bank Limited, Nalgonda, on 28.02.2020 and order or orders as this Honble Court may deem fit and proper in the circumstances of the case.”

Heard learned counsel on either side.

Petitioner is Sri Venkateshwara SC Labour Contract Co-operative Society. It has cleared all the dues and is fully eligible and qualified to participate in the election process. But name of the petitioner-Society is not included in the final voters list.

Learned counsel appearing for the petitioner contended that the voters list was not prepared in accordance with Rule 22 of the 'Telangana Co-Operative Societies Act, 1964. It is prayed that appropriate orders be passed in the writ petition directing the respondents to include the name of the petitioner-Society in the final voters list and then conduct elections.

Learned Special Government Pleader appearing for the respondents contended that election notification was issued on 20.02.2020 and with the issuance of election notification, the writ petition is not maintainable and the petitioner-Society is at liberty to challenge the elections as per Rule 61 Clauses 3 and 4 of 'Telangana Co-operative Societies Act, 1964 by filing Election Petition before the Special Tribunal. In support of his contention, he placed reliance on the judgment of the Apex Court in *N.P.Ponnuswami vs. Returning Officer*¹ wherein, it was observed as under:

“The conclusions which I have arrived at may be summed up briefly as follows:

- (1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are

¹ AIR 1952 SC 64

over, so that the election proceedings may not be unduly retarded or protracted.

- (2) In conformity with this principle, the scheme the election law in this country as well as in England is that no significance should be attached to anything which does not affect the 'election'; and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the 'election' and enable the person affected to call it in question, they should be brought up before a Special Tribunal by means of an election petition and not be made the subject of a dispute before any Court while the election is in progress."

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that in view of the law laid down by the Apex Court in *N.P.Ponnuswami vs. Returning Officer* (referred to supra), this writ petition is not maintainable as the election notification was already issued by the respondents on 20.02.2020.

Accordingly, the Writ Petition is dismissed. However, the petitioner-Society is at liberty to challenge the elections before the Special Tribunal by filing Election Petition, in accordance with law. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 24.02.2020
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