



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) Nos.10255 and 10482 of 2021

and W.M.P. (MD) Nos.7947 & 8158 of 2021

(Through Video Conference)

M.Arun Nehru ... Petitioner in W.P. (MD)
No.10255 of 2021

V.S.Murugan ... Petitioner in W.P. (MD)
No.10482 of 2021

Vs

1) The Principal Secretary to Government,
Co-operation, Food and
Consumer Protection Department,
Secretariat, Fort St.George,
Chennai 600 009

2) The Registrar of Cooperative Societies,
No.170, NV Natarajan Maligai,
Periyar EVR High Road,
Kilpauk, Chennai 600 010 ... Respondents in both W.P.s'

PRAYER in W.P. (MD) No.10255 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, against the Respondents restraining them from interfering with the functioning of the elected body of office bearers of the Petitioner Co-operative Society by taking any policy decision to supersede the elected bodies, without following any procedure under law.

PRAYER in W.P. (MD) No.10482 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, against the Respondents restraining them from interfering with the functioning of the elected body of office bearers of the Society by taking any policy decision to supersede the elected bodies without following any procedure under law and pass such further.

For Petitioner in W.P. (MD): Mr.Vijay Narayan,
No.10255/2021 Senior Counsel for

Mr.K.Gowtham Kumar

For Petitioner in W.P. (MD): Mr.S.Chandrasekar
No.10482/2021

For Respondents

: Mr.R.Shanmugasundaram,
Advocate General,
Assisted by Mr.M.Lingadurai,
Government Advocate.



C O M M O N O R D E R

Since the issue involved in both the writ petitions are one and the same, they are disposed of by this common order.

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2. Both the writ petitions have been filed mainly on the apprehension that an attempt is being made by the Government, which is presently in power, to dissolve the Board of all the Cooperative Societies and to conduct a fresh election.

3. When the matter came up for hearing on 17.06.2021, this Court passed the following order:

"This writ petition has been filed by the President of the Anbil Primary Agricultural Cooperative Credit Society, Tiruchirappalli on the apprehension that an attempt is being made to dissolve the Board of all the Cooperative Societies and to conduct a fresh election.

2. Mr.Vijay Narayan, learned Senior counsel appearing on behalf of the petitioner, brought to the notice of this Court Articles 243ZJ(2), 243ZK(1) and 243ZL(1) and the first proviso to the said Article.

3. The learned Senior counsel submitted that the apprehension was entertained by the petitioner based on a statement made by the Minister for Cooperation, wherein, it was announced that the Government may take a policy decision to dissolve the Cooperative Societies administration and conduct election. The learned Senior counsel submitted that no such policy decision can be taken and the same will be completely in violation of the Scheme of Part IX-B of the Constitution of India. The learned Senior counsel further submitted that the suspension or supersession of the Board can only happen on a case to case basis depending upon the default committed by the concerned Society and even while exercising such a power, Section 88 of the Cooperative Societies Act prescribes a particular procedure to be followed. The learned Senior counsel submitted that the Scheme of the Constitution clearly ensures that the elected body will hold the office for the entire term of five years and there is no question of taking a policy decision to supersede or suspend the elected bodies of all the Cooperative Societies across the Board.



4. The issue raised by the learned Senior counsel requires serious consideration and the State must come up with an answer for the apprehension raised by the petitioner. This issue is not confined only to the Cooperative Society, which has approached this Court and it has a larger ramification with regard to all the elected bodies in various Cooperative Societies across the State.

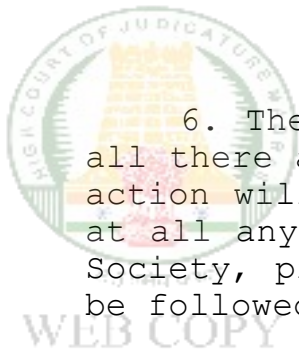
5. There is yet another clarification that requires to be given from the side of the State as to whether such a policy decision can be taken even with regard to the Cooperative Societies, where there is no Government share holding or loan or financial assistance or any guarantee by the Government. The first proviso to Article 243L(1) specifically provides that such supersession or suspension of the Board cannot be made insofar as the Societies falling under this category. The Society that has approached this Court falls under this category.

6. The learned Special Government Pleader appearing on behalf of the respondents submitted that he needs to take instructions and considering the importance of the issue, the learned Advocate General will appear on behalf of the respondents.

7. Post this case on 01.07.2021 under the caption 'for orders'. In the meantime, the present status quo shall be maintained."

4. When the matter was taken up for hearing today, the learned Advocate General appearing on behalf of the respondents submitted that the apprehension raised by the petitioners is unsubstantiated and unfounded. The learned Advocate General further submitted that the statement made by the Hon'ble Minister for Cooperation has been blown out of proportion and the Hon'ble Minister had merely conveyed during a meeting that, there are several complaints received against the Office Bearers of several Cooperative Societies and those complaints will be enquired and action will be taken against all those Cooperative Societies.

5. The learned Advocate General categorically submitted that no such policy decision was taken to dissolve all the Cooperative Societies and conduct fresh election and the petitioners have intentionally given such an impression since there are several irregularities that have been pointed out against the petitioners and the petitioners are trying to pre-empt by getting some blanket orders.



6. The learned Advocate General also made it clear that, if at all there are irregularities committed by the Cooperative Societies, action will be initiated under the Cooperative Societies Act and if at all any action is taken to dissolve or supersede any Cooperative Society, procedure as contemplated under Section 88 of the Act will be followed.

7. The apprehensions raised by the petitioners that, the Board of all the Cooperative Societies is going to be dissolved and fresh elections are going to be conducted, has been sufficiently answered by the learned Advocate General. That apart, it was also made clear that the complaints received against the irregularities committed by the Office Bearers of the Cooperative Societies will be independently dealt with in accordance with the provisions of the Act and there will be no blanket dissolution of all the Societies, as apprehended by the petitioners.

8. Recording the submissions of the learned Advocate General, both the writ petitions are closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

- 1) The Principal Secretary to Government,
Co-operation, Food and
Consumer Protection Department,
Secretariat, Fort St.George,
Chennai 600 009
- 2) The Registrar of Cooperative Societies,
No.170, NV Natarajan Maligai,
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Kilpauk, Chennai 600 010



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+1 CC to M/s.SPL GP (SR-21061[F] dated 02/07/2021 ,21062)

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01.07.2021

KMK (CO)

KB (09.07.2021) 5P 4C