



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.24383 of 2019
& W.M.P. (MD)Nos.21011 and 21012 of 2019
and W.P. (MD)No.14990 of 2020
& W.M.P. (MD)Nos.12626 and 12631 of 2020
and W.P. (MD)No.16351 of 2020
& W.M.P. (MD)No.13661 of 2020

W.P. (MD)No.24383 of 2019:-

- 1.C.Manas
- 2.C.Kumaradass
- 3.S.Lilly Bai
- 4.T.Palas
- 5.R.Jeya

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Co-operative Society Department,
Secretariat,
Chennai - 9.
- 2.The Registrar,
Co-operative Society Department,
Kilpauk,
Chennai - 9.
- 3.The District Election Officer/Assistant Director,
Khadi, Village Industries & Handloom,
Kottar,
Nagercoil,
Kanyakumari District.
- 4.The Election Officer,
The Marthandam Bee Keepers Co-operative Society Ltd., No.2050,
Periavillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.



5.The Secretary,
Committee on Co-operative Societies Election Cases,
South Zone,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the fifth respondent, in his proceedings in Proc.No.001/SJC/H/2018 (248), dated 27.08.2019 and quash the same.

For Petitioners : Mr.G.Thalaimutharasu
for Mr.D.Selvanayagam

For R1, R2 and R5 : Mr.B.Bhagavathi
Government Advocate
* * * * *

W.P. (MD)No.14990 of 2020:-

C.Manas

... Petitioner

Vs.

- 1.The Chief Executive Officer,
Khadi and Village Industries,
Kilpauk, Chennai.
- 2.The District Election Officer/Assistant Director,
Khadi and Village Industries,
Kilpauk, Chennai.
- 3.The Election Officer,
The Marthandam Bee Keepers Co-operative Society Ltd.,
No.2050, Periavillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.
- 4.The Marthandam Bee Keepers Co-operative Society Ltd.,
Rep. by Special Officer,
No.2050, Periavillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned Notification published in Dailythanthi newspaper, dated 14.10.2020, by the second respondent, quash the same and consequently, to accept the nomination of the petitioner.



For Petitioner : Mr.R.Jayaprakash
For R1 : Mr.B.Bhagavathi
Government Advocate
For R2 and R4 : Mr.Raguvaran Gopalan
For R3 : Mr.R.Vijaya Kumar
* * * * *

W.P. (MD) No.16351 of 2020:-

C.Dora Christy ... Petitioner

Vs.

- 1.The Chief Executive Officer,
Khadi and Village Industries,
Kilpauk, Chennai.
 - 2.The District Election Officer/Assistant Director,
Khadi, Village Industries & Handloom,
Kottar,
Nagercoil,
Kanyakumari District.
 - 3.The Election Officer,
The Marthandam Bee Keepers Co-operative Society Ltd.,
No.2050, Periaivillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.
 - 4.The Marthandam Bee Keepers Co-operative Society Ltd.,
Rep. by Special Officer,
No.2050, Periaivillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondents to declare the result of the election of the fourth respondent Society, which was conducted on 22.10.2020, by considering the request of the petitioner, dated 31.10.2020, within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh
For R1 to R4 : Mr.Raguvaran Gopalan

* * * * *



COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

There are three writ petitions, which we are concerned with. W.P.(MD)No.24383 of 2019 has been filed challenging the order passed by the Election Tribunal, by which, the Tribunal was pleased to hold that in view of the subsequent development, which occurred after the orders having been reserved, it would only be appropriate to go for a fresh Notification. Incidentally, it has been held that it is for the Election Officer, in the event of rejecting any nomination, to give reasons.

2.W.P.(MD)No.14990 of 2020 has been filed challenging the Notification, dated 14.10.2020, by which, the Election date has been postponed due to the prevailing Pandemic situation. This was done after the earlier Notification, followed by filing and rejection of the nominations, which occurred in the month of March 2020.

3.W.P.(MD)No.16351 of 2020 has been filed by the petitioner, who participated in the election, seeking declaration of the results, as all other processes are over, since it has been withheld by the orders of this Court.

4.In W.P.(MD)No.24383 of 2019, the Election Tribunal, in and by order dated 27.08.2019, was pleased to hold as follows:-

'After this Committee took up this matter, various adjournments were given to the parties and finally the arguments were heard on 12.06.2019. After the arguments were heard, a new development had taken place. On 21.07.2019 at about 2.50 a.m. some unidentified persons attacked the night watchman of the Society and committed criminal trespass into the buildings of the Society, ransacked the box in which the ballot papers were kept and also set fire to the ballot papers, caused damage to the CCTV Cameras and removed the Hard-Disk from those Cameras. They also broke open the almirah and took away some documents from that almirah. Therefore, a criminal complaint was registered on the basis of the complaint given by Superintendent of the Tamil Nadu Khadi Board in Crime No.277 of 2009 for offences under Sections 342, 451, 380 and 435 of I.P.C. and Section 3(1) of TNPPDL Act, 1982. It is therefore submitted by the Assistant Director of Khadi Welfare Board that having regard to the mischief committed by the miscreants the ballot papers were damaged and no purpose will be served by passing any order in the Writ Petition.

Though we reserved the case for delivering judgment, having regard to the subsequent event that the entire ballot papers were destroyed and counting had not taken place, we direct the authorities to conduct fresh election. In that



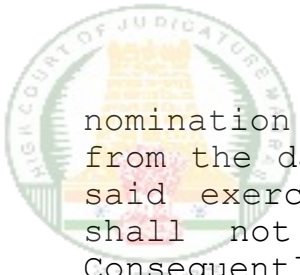
case, a question will arise whether the persons whose nominations were accepted alone be permitted to contest the election or fresh election can be notified by the Election Commission. According to us, having regard to the subsequent event, it is advisable to have a fresh Election for the Society instead of conducting the election from the stage of voting. We therefore dispose off the petition by directing the Election Commission to issue fresh Notification for election to be held for the Society and on the basis of the fresh Notification Election Officer is directed to conduct fresh Election after following the procedure. The Election Officer is also directed to inform the candidates if their nominations were rejected, the reason for rejection at the time of rejecting the nomination so as to enable the parties to work out the remedies in accordance with law.''

5.Thus, the entire issue was directed to be started afresh. If that is the case, the petitioner cannot be a person aggrieved as filing of his nomination is not prohibited by law and that his nomination rejected by the subsequent Election Notification, is a different issue altogether. Suffice it to state that petitioner is not aggrieved by the order passed by the Tribunal. In fact, after accepting the order, the petitioner filed his nomination. Therefore, looking in any perspective, nothing survives in this Writ Petition for further adjudication, especially, in the way, that enures to the benefit of the petitioner.

6.In W.P.(MD)No.14490 of 2020, challenge is only to the Notification, which postponed the election by taking note of the Pandemic situation. Here again, the Notification for Election has been accepted by the petitioner and he filed his nomination as observed by us earlier. Therefore, the rejection of his nomination earlier will not create any right to challenge the postponement of the Election.

7.W.P.(MD)No.16351 of 2020 is to be allowed, in view of the earlier two Writ Petitions having been dismissed. This is filed by a person, who participated in the Election. We are also not dealing with the validity of rejection of the petitioner in W.P.(MD)No.14990 of 2020 and W.P.(MD)No.24383 of 2019, though Mr.G.Thalaimutharasu, learned counsel appearing for the petitioner makes his submission on that account. Neither the said order is under challenge before us nor we are willing to go into the same in a collateral proceedings.

8.In such view of the matter, while dismissing W.P.(MD) Nos.24383 of 2019 and 14990 of 2020, W.P.(MD)No.16351 of 2020 stands allowed, by directing the respondents to publish the election results. However, taking note of the fact that the petitioner has been agitating his rights before this Court by various Writ Petitions, liberty is given to him either to challenge the



nomination or to challenge Election, within a period of four weeks from the date of receipt of a copy of this order. As and when the said exercise is undertaken, the appropriate authority concerned shall not reject it on the ground of limitation. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

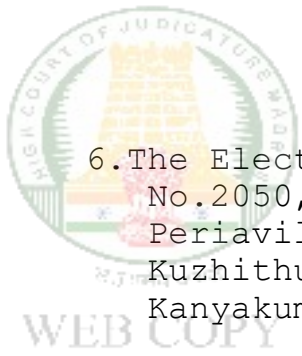
Sub Assistant Registrar(CS)

smn2

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 Secretary to Government of Tamil Nadu,
Co-operative Society Department,
Secretariat,
Chennai - 9.
- 2.The Registrar,
Co-operative Society Department,
Kilpauk,
Chennai - 9.
- 3.The Chief Executive Officer,
Khadi and Village Industries,
Kilpauk, Chennai.
- 4.The District Election Officer/Assistant Director,
Khadi and Village Industries,
Kilpauk, Chennai.
- 5.The District Election Officer/Assistant Director,
Khadi, Village Industries & Handloom,
Kottar,
Nagercoil, Kanyakumari District.



6.The Election Officer,
No.2050, Marthandam Bee Keepers Co-operative Society Ltd.,
Periavillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.

7.The Secretary,
Committee on Co-operative Societies Election Cases,
South Zone,
Madurai.

8.The Special Officer,
Marthandam Bee Keepers Co-operative Society Ltd.,
No.2050, Periavillai Veedu,
Kuzhithurai Village and Post,
Kanyakumari District.

+1 CC to Mr.R.Vijaya kumar, Advocate SR.No. 12337
+1 CC to Mr.Raguvaran Gopalan, Advocate SR.No. 12306
+1 CC to Mr.R.Jeya Prakash, Advocate SR.No. 12296
+1 CC to Mr.S.C.Herold Singh, Advocate SR.No. 12401
+1 CC to M/s.D.SELVANAYAGAM, Advocate SR-12294

Common order in
W.P. (MD)Nos.24383 of 2019, 14990 and 16351 of 2020
18.03.2021

VR(CO)
TR(31.03.2021) 7P 14C