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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1716 of 2022

and

W.M.P.Nos.1860 & 1861 of 2022

Kalaiselvi

...Petitioner

Vs.

1. The Joint Secretary to Government of India/
Central Registrar of Cooperative Societies,
Ministry of Co-operation,
Krishi Bhawan, Dr. Rajendraprasad Road,
New Delhi 110-001.

2. The Repatriate Cooperative Finance and
Development Bank
Rep. by its Managing Director,
Head Office at No.33, North Usman Road,
T.Nagar, Chennai 600-017.

3. D.Peter Jeevanantham
Returning Officer,
Repatriates Co-operative Finance
and Development Bank Ltd,
REPCO Tower, No.33, North Usman Road,
T.Nagar, Chennai 600-017.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to quash the election notice dated 07.01.2022 in Rc.530/2022/RGB elections published by the 3rd respondent returning officer without following Act, Rules and Bye-Laws for the electing 150 delegates for Representative General Body on 06.02.2022 and quash the same.

For Petitioner : Mr.B.Ullasavelan

For R2 and R3 : Mr.OM.Prakash
Senior Counsel
For Mr.A.Ilangovan



O R D E R

The relief sought for in the writ petition is to quash the election notice dated 07.01.2022 published by the 3rd respondent/Returning Officer.

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2.The learned counsel for the petitioner mainly contended that in violation of the amended bye-laws, the respondents are using the word 'Bank' and issued election notice. Therefore, the election notice issued by using the word 'Bank' is null and void and hence, the election notice itself is to be quashed.

3.The learned counsel for the petitioner raised several grounds including the business activities of the respondents by stating that the purpose and object for which the society was constituted is now being defeated and the repatriates, who all are founder members are deprived of their right of holding the Directorship post. The respondents are taking attempt to provide voting right to the public, who all are the depositors and in the event of enlarging the scope of the bylaws the repatriates who constitute the society will be affected and therefore, the election is to be stayed.

4.There are several disputes exist between the parties. The very amendment carried out in the bye laws are questioned and further, using the name Bank is also objected by the members of the respondent Bank. Beyond this, several other disputes are also raised by stating that voting right cannot be given to all the depositors, who deposited their money in the respondent Bank. The voting rights is restricted as per the original bye-law and therefore, the respondents are committing series of violations in respect of the activities of the Bank.

5. This Court is of the considered opinion that all such disputes require an elaborate adjudication with reference to the documents and evidences. Admittedly, the respondent is a Co-operative Society registered under the provisions of the Multi-State Co-operative Societies Act. The Act provides mechanism for raising a dispute and adjudicate the same for reaching finality. Therefore, the petitioner is bound to raise this. Even in respect of the election, under Section 84 (2) (c) of the Act the petitioner is at liberty to raise an election dispute and when there is a scope for raising an election dispute, the process of election need not be stayed by this Court unnecessarily. Once the election process is set in motion the Courts will exercise restrain in stalling the election as stay of election would result in interfering with the democratic process. Thus, the elections must go on and in the event of any dispute in respect of such elections, the parties aggrieved shall raise any disputes under Section 84 for resolving the issues. Even a declaration can be sought for to declare the



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elections as null and void. This being the scope of the election dispute, the petitioner is at liberty to file an election dispute if he is so advised after completion of the process of election. Contrarily, in the event of stalling the election, when the process is in progress, the same will cause irreparable loss. Contrarily, if any election disputes is raised under the provisions of the Multi State Co-operative Societies Act, even a declaration can be granted by the competent authority after conducting an elaborate adjudication.

6. Under these circumstances, Courts are bound to adopt a balancing approach and therefore, the relief as such sought for in the present writ petition cannot be considered and the petitioner is at liberty to raise an election dispute under the provisions of the Multi-State Co-operative Societies Act after the completion of the processes of election.

7. With these liberty, the Writ Petition stands dismissed. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Jeni/Cse

To

1. The Joint Secretary to Government of India/
Central Registrar of Cooperative Societies,
Ministry of Co-operation,
Krishi Bhawan, Dr. Rajendraprasad Road,
New Delhi 110-001.
2. The Managing Director,
The Repatriate Cooperative Finance and Development Bank
Head Office at No.33, North Usman Road,
T.Nagar, Chennai 600-017.
3. The Returning Officer,
Repatriates Co-operative Finance
and Development Bank Ltd,
REPCO Tower, No.33, North Usman Road,
T.Nagar, Chennai 600-017.

+1cc to Mr.A.Ilangovan, Advocate, S.R.No.7459

+1cc to Mr.B.Ullasavelan, Advocate, S.R.No.7751

W.P.No.1716 of 2022

NRL (CO)

RGA(11/02/2022)