



Crl.O.P.No.9022 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Orders Reserved On 18.10.2022	Orders Pronounced On 21.11.2022
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Crl.O.P.No.9022 of 2016
and Crl.MP.No.4681 of 2018

1.N.Manivannan
2.V.Baskaran
3.M.Renuka Lakshmi
4.R.Eswaran

... Petitioners

Vs.

G.Sivakumar

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.2298 of 2016 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioners : Mr.A.Nagarajan

For Respondents : Mr.R.Diwakaran



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ORDER

The petitioner who are accused in C.C.No.2298 of 2016 on a private complaint filed by the respondent facing trial for the offence under Sections 405, 463, 464, 468, 467, 471, 474, 477A, 402, 420 r/w. 120-B IPC filed this quash petition.

2.The respondent/complainant, a member of Railway Employees Cooperative Credit Society Ltd. [hereinafter referred as “RECCS Ltd.”], the complaint is that the Society which has an annual turnover of more than Rs.700 Crores is to conduct election every five years to the members of Board of Directors. The Society has a membership of more than 60,000 Railway employees and the Board is elected by around 500 to 600 members of the Representative Assembly members. The respondent's colleague Mr.K.Shankara Narayanan filed a writ petition in W.P.No.10761 of 2013 before the High Court seeking for issuance of writ of Mandamus to conduct the election as the term of Board of Directors comes to end by April 2013 further the election to be conducted in terms of Article 243-zk of the



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Constitution of India by secret ballot as contemplated under Section 45 of the Multi-State Co-operative Society Act, 2002 [hereinafter referred to as “the MSCS Act”] under the supervision of independent person/body nominated as per the guidelines/rules issued by the State Government. During the pendency of the writ petition, a counter was filed along with documents, which includes a letter from the first petitioner dated 08.02.2013 to the Central Registrar of Cooperative Societies, New Delhi and the report of the second petitioner/Returning Officer disclosing that election to the Directors of the Society was conducted from 01.02.2013 to 03.02.2013 at World University Service Centre [WUS Centre], Chetput, Chennai. From the letter dated 08.02.2013, it is seen that the first petitioner pursuant to the sub-rule (1) of Rule 19 r/w. Section 45 of MSCS Act, 2002 and Bye-law No.20 of the Society, appointed the second petitioner as Returning Officer to conduct election.

3.The second petitioner by his letter dated 07.02.2013 communicated to the Central Registrar of Cooperative Societies informing that he directed the first petitioner to provide procedures to be followed for conducting the



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election to the Board of Directors through his letter dated 05.12.2012.

Further, the second petitioner also sought from the first petitioner the list of Representative General Body [RGB] members department wise and all other relevant documents for conducting the election. The first petitioner by letter dated 10.12.2012 is said to have submitted all the documents including the list of RGB members. The second petitioner in his letter dated 07.02.2013 also claimed that based on the scrutiny of RGB members list, the list of eligible RGB members who can vote in the election was sent to the first petitioner to display the same in the notice board of the Society and its branch offices at least 15 days prior to the date of election and the same was complied with by the first petitioner which is totally false. On the contrary it was found that no such scrutiny of RGB members list was carried out by the second petitioner and no eligible voters list displayed in the notice board of the Society or its branches. The second petitioner gave fabricated and forged documents to the Central Registrar of Cooperative Societies to project that as if the election was conducted as per the rules and procedures. He had further submitted that the second petitioner prepared the general body meeting notice dated 31.12.2012 by directing the Chief Executive



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Officer/first petitioner to send the same to all the RGB members by post as per the Act, rules and by-laws of the Society. Further, it is projected by the second petitioner that he directed the first petitioner to display the general body meeting notice, election programme in the notice board of Society's head office and its branches and complied with. He also informed by his letter dated 07.02.2013 that election notice, schedule was published in the local newspaper atleast 15 days prior to the date of election. Further, in his communication he had stated that he authorized the first petitioner/Chief Executive Officer, RECCS to receive nomination papers submitted by members in person or through post on or before 5.00 p.m. on 01.01.2013.

4.As per the report election conducted at the World University Service Centre [WUS], wherein 30 nominations for the post of Directors received till 5.00 p.m. on 01.02.2013 and serially numbered, entered in a ledger. Further, on 02.02.2013 from 8.00 a.m. onwards all the nomination papers were scrutinized as per the election programme for 11 Departments with the assistance of the Chief Executive Officer/first petitioner herein and his staff and found all the 30 nominations valid. Thereafter, the valid nomination of



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the 30 candidates for 11 Departments published and exhibited in the notice board at the general meeting of the RGB venue at WUS Centre, of the 30 candidates, 13 candidates withdrawn their nominations and the final list of valid nominations of 17 nominees got published in the notice board at the RGB meeting venue. Finally on 03.02.2013, since number of valid nominations are equal to the post to be elected, no polling necessitated. Thereafter, it was resolved to declare the election results and the second petitioner declared 17 candidates as successfully elected. Thereafter, the Chairman and Vice Chairman election notice was served to all the 17 newly elected Board of Directors under acknowledgment and one of them filed his nomination for the post of Chairman and no nomination for the post of Vice Chairman received. Since there was no contest for the post of Chairman, the only candidate who filed nomination was declared, elected which was proposed and seconded by the elected Directors resolution passed unanimously by all the members of the Board.

5.This report of the second petitioner dated 07.02.2013 is a false



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report, likewise the communication sent by the first petitioner dated 08.02.2013 is also false. The second petitioner without conducting election falsely announced the list of newly elected Board of Directors in the RGB meeting at WUS Centre and a forged report was submitted to the Central Registrar of Cooperative Societies. The election for the period 2013-2018 never happened, no notice to the election was displayed in the notice board of the Society or at the notice board of any branches of the Society and no election schedule published in any of the local newspapers and none of the complainant's colleagues who are also members of the Society were aware of any such election. One of its member, Mr.Cyril Thiagaraj, who is the Secretary of Railway Employees Cooperative Society Staff Union sought information through RTI application dated 06.10.2014 addressed to the Public Information Commissioner, University of Madras, who received a reply informing that the RECCS booked WUS Centre from 01.02.2013 to 03.02.2013 and further received information that no election took place at WUS Centre as claimed by the Society and the Auditorium was used for discussion by some Hockey players on 02.02.2013 between 10.00 a.m. and 3.00 p.m. Thus, proving the fact that no election took place as projected by



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the Returning Officer/second petitioner. Further, in the complaint it is submitted that Mr.N.Kanniah who is not eligible to contest the election for Chairman of the Society under Section 44(2) of the MSCS Act, 2002. Further, no member of the Board should be eligible to be elected as Chairman of the Society after holding the office for two consecutive terms whether full or in part. In view of the same, the said Mr.N.Kanniah was not eligible. Further, the second petitioner misused the Railway stationery, who used the Railway emblem in his report informing the Central Registrar of Cooperative Societies about the election. This usage of Railway stationery is only to deceive others that election was conducted by person in authority by following the procedures. The third and fourth petitioners booked the Auditorium for three days and paid the rent for the same. Thus, the third and fourth petitioners conspired with the first and second petitioners to project as though the election was conducted in a free and fair manner, following the procedures and rules and regulations. The respondent collected documents through RTI with great difficulty facing much obstacles, listing seven witnesses and 19 documents, filed the complaint and also filed additional statement before the Trial Court. The Trial Court on



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examination finding prima facie case made out took the complaint on file in C.C.No.2298 of 2016, issued summons to the accused. Against which, the present petition is filed.

6.The contention of the learned counsel for the petitioners is that the complaint was filed to wreck vengeance without any factual or legal basis. He would submit that the entire complaint is artificial and baseless. The subject matter of the complaint was agitated before this Court by way of writ petitions, arbitration proceedings and the respondent and others suffered adverse orders, filed appeal which was also dismissed, failed in his attempts to cause hindrance and to bring down the Society to grounding halt for obvious reasons. This motivated complaint filed. He further submitted that one of the witnesses cited, namely, Mr.R.C.Cyril Thiagaraj is the Secretary of Railway Employees Cooperative Society Staff Union who got animus against the Society, likewise the respondent and his friend Mr.Sankara Narayanan were filing one petition or other to malign the Directors of the Society by casting aspersion and making wild and false, furious allegations against the Society and its Directors. He would submit that except for a



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sweeping and wild allegation stating that for the year 2010 as well as for the year 2013 there was no election conducted, the second witness listed Mr.Sankara Narayanan filed a writ petition in W.P.No.10761 of 2013 and projected as though during the pendency of the writ petition from the counter filed only came to know about the election conducted during February 2013. This writ petition was filed during April 2013.

7.He further submitted that the other listed witnesses are from the WUS Centre, the Commercial Manager, Southern Railway and Public Information Officer. It is strange that by basing on innocuous reply the respondent wanted to project as though no election took place. On what basis, reply was sent by the WUS Centre is not known. In the complaint, there is nothing to show that, any of the witnesses visited WUS Centre on the election date, found no activity of election being conducted. The booking of the WUS Centre is confirmed and what activities happened inside the Auditorium, LW4 and LW5 may not know any person who visited and witnessed the happenings between 01.02.2013 to 03.02.2013 can be appropriate person to speak about the same. Admittedly, none of the



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listed witnesses stated anything with regard to their physical presence or witnessing any such happenings. The interpretation of the communication received from WUS is based on the individual's perception. The respondent having displeasure over the Society and its Directors, sending several representations or petitions to all the authorities maligning the image of the Society and also questioning the Office bearers capability and credentials, for many years has filed the complaint. The respondent having motive to bring down the society to grinding halt from in functioning, there can be no secrecy about the elections. The Society has membership of 60,000 people Railway employees spread over the State of Tamil Nadu, Andhra Pradesh, Kerala, Karnataka, Maharashtra, having their colleagues in all places, hence, without anybody knowledge such election cannot take place in secrecy and the report cannot be termed as cover up. He further submitted that the listed documents, the communications and report sent by the first and second petitioners to the Central Registrar of the Cooperative Societies are now alleged to be forged, but the veracity of these two documents tested by this Court in the writ petition and in the arbitration adjudications. The Central Registrar of Cooperative Societies, who is the respondent in the writ petition



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admitted the receipt of communication and the report sent by the first and second petitioners wherein the sequence of election held from 01.02.2013 to 03.02.2013 are narrated and along with it, the pre-election procedures followed. In W.P.No.10761 of 2013 filed by the second listed witness, namely, Mr.Sankara Narayanan, Member of the Society is for a writ of Mandamus, seeking for conduct of election of the Society was filed during April 2013. This is a ploy by the said Sankara Narayanan, who was very much aware of the conduct of the election during February 2013. Two months thereafter filed a writ petition feigning ignorance and W.P.No.10761 of 2013 filed, this Court by order dated 27.08.2014 dismissed the writ petition directing the said Mr.Sankara Narayanan to approach the appropriate authority under Section 84 of the MSCS Act challenging the election in the manner known to law. The said Sankara Narayanan sent a representation to appoint an Arbitrator with regard to the dispute, alleging illegality in the election process conducted on 02.02.2013.

8.He further submitted that the respondent filed O.A.No.139 of 2013



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under Section 9 of the Arbitration and Conciliation Act making sweeping allegations about the mismanagement, misappropriation of Society Funds and questioning the qualification of the Chief Executive Officer and others. This Court by detailed order dated 20.03.2015 directed the respondent herein to raise the issue of maintainability of the arbitration proceedings by filing application under Section 11, further finding that there is no prima facie made out by the respondent herein seeking various prayers failed to grant injunction. The respondent sent a representation on 09.04.2015 to the Central Registrar of Cooperative Societies to appoint an Arbitrator regarding the dispute with regard to the election conducted on 02.02.2013. Following the same, he filed O.P.No.164 of 2013 to appoint Arbitrator to decide the dispute whether Mr.N.Kanniah can continue as Chairman of the Society. Further, he filed O.P.No.637 of 2015 with regard to the dispute between the respondent herein and the Society under Section 84 of the MSCS Act. O.P.No.425 of 2015 was filed by Mr.Sankara Narayanan for deciding the issue pertaining to non-conduct of election and fabrication of election results. Thereafter, O.A.Nos.138/2013 and 417 & 418 of 2015 were filed by the said Mr.Sankara Narayanan and the respondent herein seeking



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restraintment of the elected Directors to discharge the function as Office bearers of the Society and to appoint a receiver to manage the affairs of the Society and also seeking injunction restraining the Chief Executive Officer/first petitioner herein to perform his duties. This Court by order dated 30.03.2016 directed the Arbitral Tribunal to take up the matter and dispose of the same on merits and in accordance with law within a period of two months from the date of receipt of a copy of the said order. Application Nos.3480 to 3482 of 2016 were filed by the said Mr.Sankara Narayanan and the respondent herein in the aforesaid O.As. This Court by order dated 22.07.2016 allowed the applications by extending the period of two months to further period of six months to decide the issue. Thereafter, the Arbitrator, Former Judge of this Court in Arbitration Case Nos.1 and 2 of 2016 by order dated 26.01.2018 given a finding with regard to the dispute raised that the election to the Board of Directors held on 03.02.2013 was in accordance with the procedure laid down under the Act, Rules and Bye-laws, confirmed the validity of the election and Directorship and dismissed the arbitration proceedings initiated by Mr.Sankara Narayanan.

9.In another arbitration proceedings in Arbitration Case No.7 of 2016



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initiated by the respondent herein, the Arbitrator by order dated 26.01.2018 confirmed the appointment of third respondent therein, namely, first petitioner herein as Chief Executive Officer of the Society as legal and valid. Likewise in Arbitration Case No.8 of 2016 which was filed by Mr.Sankara Narayanan as claimant, the Arbitral Tribunal by order dated 26.01.2018 held the dispute with regard to electing of Mr.N.Kanniah as Chairman of the Society on the election held on 03.02.2013 for the period 2013-2018 cannot be questioned as it is barred and further the election is not hit by Section 44(2) of MSCS Act, 2002 and the February election 2013 is legal and valid. In all the four arbitration proceedings, the Arbitrator while dismissing the claimant's claim directed the Claimants to reimburse the second respondent Society for the cost of arbitral proceedings including the fee of the Arbitrator, against which, the respondent as well as the said Mr.Sankara Narayanan filed O.P.Nos.384 to 387 of 2018 and A.Nos.3428 to 3431 of 2018. This Court by order dated 20.04.2018 stayed the payment of cost alone for a period of four weeks and thereafter, this Court by order dated 08.06.2018 extended the stay until further orders. One Mr.A.Janakiraman, a Member of the RECCS filed W.P.No.31326 of 2018 for a writ of



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Declaration declaring the continuation of Mr.Kanniah as Chairman of the Society as illegal. The said writ petition was dismissed by this Court by order dated 05.12.2019. Against which, the said Mr.A.Janakiraman filed an appeal in W.A.No.221 of 2020 and the First Bench of this Court by order dated 02.06.2020 not entertained the writ appeal, agreeing with the conclusion of the order of the learned Single Bench. In such circumstances, this complaint was pursued by the respondent. Further, barrage of cases filed by the respondent, Mr.Sankara Narayanan and one Mr.A.Janakiraman would prove serious animus by some of the members of the Society since the society was functioning well with the elected Directors earning appreciation for the services rendered by them. Hence, for obvious reasons, these petitions, questioning the conduct of election and functioning of the Society is being raised without any substance.

10.He further submitted that the Society was established on 31.01.1907, completed 112 years of service to the Railway men, introduced welfare schemes for the members and staff of the Society. The welfare scheme called “Loan Coverage Scheme” for the members wherein in the



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event of death of a borrower, the entire outstanding loan amount along with interest is fully waived thereby saving the bereaved family of the deceased member from attachment of gratuity and also it saves the guarantor, introduced “Distress Relief Fund” protects such of those borrowers who are compulsorily retired/removed/dismissed [with no gratuity or less gratuity] wherein the entire outstanding loan along with interest is completely waived. This scheme also protects the guarantors. All the members of the Society are given a personal accident coverage of Rs.3 lakhs, under a Scheme called “Personal Accident Coverage Scheme”, wherein in the event of death of a borrower, for whatever reason the compensation ranging from Rs.6,000/- to Rs.3 lakhs is paid. In addition, children of the Members of the Society are given “Education Award” for the meritorious and outstanding students. Thus getting appreciation from all the members of the society and the Society gained credibility and respect among the members of the Railway men which might be the reason for the respondent and his group to file such complaint with false allegations. The learned counsel for the petitioners in support of his contention relied upon the decision in the case of ***A.P.Mahesh Cooperative Urban Bank Shareholders Welfare Association vs. Ramesh***



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Kumar Bung and others reported in **[2021] 9 SCC 152**, wherein the Apex Court held that election dispute cannot be sought to be converted to a criminal case.

11.The learned counsel for the respondent submitted that the respondent is a member of RECCS, the petitioners are the Chief Executive Officer, Returning Officer and Directors in Executive Committee of the Society. He would submit that a fraud has been played by the petitioners to project as though election was held on 03.02.2013 without conducting any election. The second petitioner sent a report, dated 07.02.2013 as Returning Officer to the Central Registrar of the Cooperative Societies, New Delhi reporting about the conduct of election. The first petitioner/Chief Executive Officer followed the same by his communication dated 08.02.2013. There are about 60,000 Railway employees who are members of the Society. As per the Act, Rules and Bye-laws the Representative Assembly members vote for election of Board of Directors and there are about 500 to 600 such members. Primarily, the members select representative to the general body who in turn participate in the general body election and vote for the



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Directors. In this case, it was projected that as though the Returning Officer/second petitioner directed the first petitioner to provide the procedures to be followed for conducting election and the list of RGB members, department wise and all other documents for conducting the election to the Board. It is also projected as though the first petitioner furnished the procedure along with the relevant documents and list of RGB members, no such communication taken place and no such particulars furnished. Likewise no display of any public notice in the head office of the Society or its branch offices. The members of the Society are spread over the State of Tamil Nadu, Andhra Pradesh, Kerala, Karnataka and Maharashtra. The concerned Divisional Officers reported that no notice received or displayed in the concerned Branch office of the Society informing about the representative election which would prove that the entire election is a farce. The report received through RTI and the officials of the Madras University and WUS Centre stated that there was no general body election, instead for three days the third and fourth petitioners booked the Auditorium in WUS Centre from 01.02.2013 to 03.02.2013 and paid the rent, but no election held, it was only a discussion among the Southern



Railway Hockey players. The entire election is stage mannered.

12.Added to it, there was no publication in the newspapers about the conduct of election. Since no election was conducted in the year 2013, Mr.Sankara Narayanan, respondent's friend who is also a member of the Society filed a writ petition in W.P.No.10761 of 2013 seeking for issuance of writ of Mandamus to conduct the election by April 2013. In the said writ petition, the first petitioner herein filed a counter informing that already election conducted during February 2013. Thereafter, the respondent and others took steps to find out the real happening, collected documents, enquired with the other members, Officials of the Madras University, Railway officials and found that no such election took place. Further, false reports filed as though 30 members filed their nominations, 13 of them later withdrawn and there was only 17 nomination for the 17 posts. Since no election was required, all the 17 nominees were declared elected as Board of Directors and thereafter, the election for Chairman and Vice Chairman conducted on 03.02.2013 since only one nomination of Mr.Kanniah was filed for Chairman post and no nomination for Vice Chairman. Hence,



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Mr.Kanniah unanimously elected to the post of Chairman. The said Mr.Kanniah though he is not eligible to contest the election as per the rules and bye-laws, continuously holding the post of Chairman and Vice Chairman according to his convenience and all the members are his cronies. The first petitioner is not eligible to hold the post of Chief Executive Officer of the Society which was also challenged before this Court by way of writ petition. Finding doctoring of documents. Forgery, cheating and commission of other offences, the complaint filed.

13.He further submitted that the Trial Court on the complaint and the documents produced getting satisfied that prima facie case is made out against the petitioners took the complaint on file, against which the quash petition is filed which is pre-mature. He would further submit that the contention of the petitioners are disputed fact, it is for the petitioners to appear before the Trial Court, put forth their case by way of cross examination, confronting the documents with the complainant and other witnesses. Even before crossing the preliminary stage, the petitioners rushed to this Court, obtained stay and thereby, the trial in C.C.No.2298 of 2016 is



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stalled. The respondent herein and Mr.Sankara Narayanan as well as Mr.Cyril Thiagaraj, Secretary of Railway Employees Cooperative Society Staff Union would prove that no such election was conducted as contemplated under the Act, Rules and Bye-laws. Further, the General Secretary of WUS Centre would confirm that no election was conducted at WUS Centre between 01.02.2013 and 03.02.2013. The Chief Commercial Manager and Public Information Officer of Southern Railway would prove the fact that no notice was displayed in the notice board of head office of the Society and its branches. Thus, fraud has been played, using forged documents took control of the Society. This society has got huge funds of its members, thereby the accused have misappropriated, cheated and also made entries falsifying the documents of the Society to their convenience and hence, committed serious offence. Further, the petitioner produced the documents addressed by the second petitioner in the letter head of Railways which he is not entitled to use after his retirement. The letter written by Mr.Cyril Thiagaraj, Secretary Railway Employees Cooperative Society Staff Union, under Right to Information Act, collected documents, communication from the World University Service Centre and from various Divisional



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Offices of Southern Railway confirms that no procedure followed and no such election took place. He further submitted that the contention of the petitioners that several writ petitions, arbitration proceedings filed by the respondent and Sankara Narayanan against the petitioners and others pertain to other issues and not with regard to the commission of forgery and misappropriation by the petitioners. Hence, the pendency and disposal of the various writ petitions and arbitration petitions cannot be a ground to quash the complaint. The petitioners have to necessarily appear before the Trial Court prove their innocence and not to shy away from the same. Hence, he prayed for dismissal of this petition.

14.Considering the submissions made and on perusal of materials, it is seen that the second petitioner/Returning Officer, a retired Senior Officer in Southern Railways, Personnel Department and Sports. After his nomination as Returning Officer, he asked the Chief Executive Officer/first petitioner about the procedures and list of RGB members, after scrutiny of the same, he directed the first petitioner to display the list of eligible members and RGB voting members in the notice board of the Society and its



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branch offices, at least 15 days prior to the election. Likewise, he directed to publish the election schedule in the local newspapers. The second petitioner authorized the first petitioner to receive the nominations of members in person or through registered post. The election process was for three days from 01.02.2013 to 03.02.2013. The booking of the Auditorium of World University Service Centre for these three days is not in dispute. The dispute is with regard to conduct of election whether members participated in the election process on these days. The admitted case of the respondent is that he never visited the WUS Centre on these three days and not aware personally about the happenings on these three days. The respondent states that he came to know about the conduct of election only when the first petitioner filed his counter in W.P.No.10761 of 2013. This writ petition was filed by the respondent's friend Mr.Sankara Narayanan, who is also member of the Society. It is not the case of the respondent as well as the said Mr.Sankara Narayanan that they are RGB members denied voting or nomination. Further, apart from the respondent, his friend, Mr.Sankara Narayanan and the rival Staff Union General Secretary, Mr.Cyril Thiagaraj, none of the members of the Society made any complaint or objection with



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regard to the conduct of election.

15.It is seen that after the election as per the procedure, the Returning Officer/second petitioner sent a report on 07.02.2013 to the Central Registrar of the Cooperative Societies, followed by a communication from the first petitioner/Chief Executive Officer on 08.02.2013. Both the report and communication received by the Central Registrar of the Cooperative Societies, who recorded the same, which is not disputed. The writ petition in W.P.No.10761 of 2013 was filed on 22.04.2013 seeking Mandamus to conduct election by April 2013. The tenure of the erstwhile Board members was to get over by April 2013. In such case, the writ petition ought to have been filed well in advance giving sufficient time for publication of election notice, calling for nominations, etc. In this case, at the fag end of April 2013, Mr.Sankara Narayanan filed this writ petition. This writ petition was dismissed on merits by this Court on 27.08.2014 recording election conducted during February 2013 and the petitioner, i.e. Mr.Sankara Narayanan to approach the competent authority under Section 84 of the MSCS Act, 2002. Thereafter, the representations were sent by the



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respondent as well as Mr.Sankara Narayanan to the Central Registrar of the Cooperative Societies disputing the elections. They also invoked arbitration proceedings questioning appointment of the first petitioner as Chief Executive Officer and seeking restraintment of his functioning as Chief Executive Officer.

16.The Deputy Director [Cooperation], Ministry of Agriculture sent a communication to the respondent with regard to appointment of Arbitrator under Section 84 of the MSCS Act, referring to the order passed in W.P.No.10761 of 2013. Thereafter, arbitration proceedings initiated. The Arbitrator to conclude the arbitration within a stipulated period and thereafter, seeking extension of time for completion of arbitration, are all sought by approaching this Court in various proceedings referred above.

17.Further, a Former Judge of this Court appointed as Arbitrator to decide the dispute in O.P.Nos.425and 637 of 2015 relating to election of the members of Board of Directors of RECCS. These arbitration proceedings



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concluded and orders passed on 26.01.2018 in Arbitration Case Nos.1 & 2 of 2016 and 7 & 8 of 2016. The allegations and complaint of the respondent considered, deliberated and thereafter, orders passed. The arbitration orders confirmed that the election held during February 2013 found to be valid. In the arbitration proceedings, cost was imposed on the respondent as well as his friend Mr.Sankara Narayanan, against which, they filed O.P.Nos.384 to 387 of 2018. Similarly, one of the member of the Society filed W.P.No.31326 of 2018 questioning Mr.Kanniah, functioning as Chairman or Vice Chairman alternatively according to his convenience, which was not in accordance with Section 44 of the MSCS Act. This Court dismissed the writ petition and thereafter, writ appeal filed which was also dismissed confirming the order in W.P.No.31326 of 2018. Thus, it is seen that right from W.P.No.10761 of 2013 which is filed during April 2013, several petitions filed by the respondent and others, which are either dismissed or negated. In all the proceedings, the disputes around the election held during February 2013. During the proceedings, the election issues deliberated and after recording the evidence and submissions orders passed confirming the election held during February 2013 valid. The



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election of February 2013 recognized by the appropriate authorities. It is seen that the tenure of 2013 election completed, thereafter subsequent elections for the later period conducted and completed. The respondent primarily relies on the information obtained under Right to Information Act from WUS Centre, wherein reply is that that the Auditorium was booked for society election by the third and fourth petitioners, but only Hockey players meeting was held and auditorium not utilized. Further, no election notice displayed in the head office of the Society as well in the branches. Both are projected against the petitioners disputing conduct of any election during February 2013. In this case, for the post of 17 member Director, there was no contest, all elected and nominated unopposed. Further, it is not the case that the respondent or any witness was present physically, on the relevant date in WUS Centre during the election process. The respondent primarily relies on the reply received from WUS and Railway Divisional Manager. The reply from the WUS, is general in nature, without any particulars. Further, the General Secretary & Manager WUS not personally present witnessed any event. Except renting out the auditorium and library hall, they have no personal knowledge, the letter has no relevance. The



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communication from the Railway Divisional Officer, Bangalore, Guntur, Madurai, Wagon workshop, Guntapalli, ICF and Headquarters, commercial branch are general in nature. The reply is that they had no correspondence with society, further no employee availed special casual leave. Again this information has neither any relevance nor helpful to the case projected by the respondent. The society activities are independent. In view of the above, there is no case made against the petitioners. Further, this Court in more than one proceedings gave authoritative pronouncement confirming the election conducted during February 2013. Added to it, a retired Judge of this Court, who as Arbitrator, declared the election held on 03.02.2013 to Board of Directors and office bearers, are in accordance with the procedure laid down under Act, Rules, Schedule and bye laws and elected validity.

18.Added to it, none of the members more specifically the RGB members made any complaint questioning the election held during February 2013. Further, the election process if at all is questioned, it has to be by invoking Section 84 of the MSCS Act and following the same, arbitration proceedings have been held and the contention of the respondent was



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negated. Thus, in more than one proceedings the election process has been tested by this Court and declared to be valid. In view of the same, this Court finds no reason in continuance of the private complaint filed by the respondent, which is nothing but abuse of process of law.

19. Therefore, the case and proceedings in C.C.No.2298 of 2016 against the petitioners pending on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai is hereby quashed. The petition is allowed, accordingly. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Internet: Yes/No

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To

The XIV Metropolitan Magistrate,
Egmore, Chennai.

M.NIRMAL KUMAR, J.

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Pre-delivery order made in

CrI.O.P.No.9022 of 2016

21.11.2022