



WEB COPY



W.P.Nos.19843 of 2020 & 4033 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.19843 of 2020 & 4033 of 2022

and

W.M.P.Nos.24510, 24512 & 24514 of 2020
and 4179 & 4181 of 2022

W.P.No.19843 of 2020:-

- 1.A.Babu Radhakrishnan
- 2.D.Kulandainathan
- 3.G.Valanarasu
- 4.M.Mohan
- 5.P.Mohan

... Petitioners

Vs.

- 1.Government of India,
Rep by its Secretary,
Department of Co-operation,
Ministry of Food, Agriculture, CD and Co-operation,
Krishi Bhawan,
New Delhi – 110 001.

- 2.The Central Registrar of Co-operative Societies,
Department of Co-operation,
Ministry of Food, Agriculture, CD and Co-operation,
Krishi Bhawan,
New Delhi – 110 001.



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3.The Government of Telecommunication
Employees Co-operative Society Ltd,
Rep by its Secretary,
No.112, Sembudoss Street,
Chennai – 600 001.

4.S.Veeraragahavan,
President,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

5.K.Ragunathan,
Vice President,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

6.V.Babu,
Director,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

7.A.Krishnamurthy,
Director,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.



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8.Nagaraja,
Director,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

9.M.Selvi,
Director,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

10.V.Baskar,
Director,
President,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

11.P.D.Chandrababu,
Director,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.112, Sembudoss Street,
Chennai – 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the 1st and 2nd respondents to dissolve the existing Board of Directors of the 3rd respondent Society, whose tenure was over on 19th May 2019; to hold an election to elect the new Board of Directors for the 3rd respondent Society; to appoint a Special Officer to



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administer the 3rd respondent Society till the election is conducted and the new elected Board of Directors assume office; to convene the RGB through the Special Officer to approve the audited annual accounts, balance sheet, profit and loss accounts etc for the accounting years 2017-2018 to 2019-2020; to take immediate steps for the settlement of the dividends and other dues payable the retired, deceased and serving members and to appoint a special auditor to go into the entire affairs of the 3rd respondent society from 19.05.2014 to till date and to take appropriate action for the unlawful loss and the financial and other irregularities against the person who are responsible for the same, based on the report to be submitted by the Special Auditor.

For Petitioner : Mr.N.G.R.Prasad
Senior Counsel for
Mr.Krishnasamy

For Respondents : Mr.K.Subbu Ranga Bharathi
CGSC for R1
Mr.P.Satheesh Kumar
for R4 & 5

W.P.No.4033 of 2022:-

1.N.Jothimurugan
2.R.Chinnasamy
3.G.Sivakumar
4.R.Nandakumar
5.J.Nithyavathi
6.Uma Srinivasan

... Petitioners

Vs.



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1. Union of India,
Rep by its Secretary to Government,
Ministry of Agriculture & Farmer's Welfare,
Department of Agriculture, Cooperation & Farmers Welfare,
New Delhi.
2. The Joint Secretary to Government of India/
Central Registrar of Cooperative Societies,
Ministry of Agriculture & Farmers' Welfare,
Department of Agriculture, Co-operation & Farmers' Welfare,
New Delhi.
3. The Chief General Manager (Tamilnadu Circle),
Bharat Sanchar Nigam Limited (BSNL),
Greens Road, Thousand Lights,
Chennai.
4. The Chief General Manager (Chennai Telephones),
BSNL, 78,
Purasaiwakam High Road,
Chennai – 600 010.
5. The Chief General Manager (Southern Telecom Project),
BSNL, 25, Greenways Lane,
R A Puram,
Chennai – 600 028.
6. The Chief General Manager (Southern Telecom Region)
BSNL, II Link Road, Ganapathy Colony,
Guindy,
Chennai – 600 032.
7. The Government Telecommunication
Employees Co-operative Society Ltd,
Rep by its Secretary, having Registered Office at
No.37-A, Sembudoss Street,
Chennai – 600 001.



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8.S.Veera Raghavan,
Office Superintendent,
Regional Engineering Maintenance,
Tamil Nadu Circle, BSNL,
No.16, Greams Road, Chennai – 600 006.

9.C.Prabakaran
Ex-Secretary,
The Government Telecommunication
Employees Co-operative Society Ltd,
No.37-A, Sembudoss Street,
Chennai – 600 001.

10.R.Kannan
Secretary
The Government Telecommunication
Employees Co-operative Society Ltd,
No.37-A, Sembudoss Street,
Chennai – 600 001.

11.K.Ragunathan
Vice President of the Society,
TT., Office of the Junior Engineer (General),
Tiruvallur – 602 001.

12.R.Thirisangu,
Treasurer of the Society – Official Designation in BSNL:
J.E., Office of the Sub Divisional Engineer,
Mambalam, Chennai – 600 017.

13.The Sub Registrar,
Avadi,
Chennai – 600 071.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for
issuance of a Writ of Mandamus, directing the respondents 1 to 7 to initiate



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appropriate criminal action against the respondents 8 to 12 for their misconduct against the petitioners and to take appropriate action to ensure that the amounts due and payable to the petitioners by the Government Telecommunication Employee Cooperative Society Ltd., on whose behalf the BSNL Management was deducting the salary of the petitioners towards payment of subscription amount are duly paid to the petitioners from the available funds of the fourth respondent society or by conducting sale of lands belonging to the society and to direct the 3rd and 5th to 7th respondents to ensure that the properties of the 4th respondent is not alienated pending disbursement of the payments due to be paid to the petitioners herein.

For Petitioners : Mr.M.Ravi

For Respondents : No apperance
for R1 to 12
Mr.B.Thamil Nidhi
Additional Government Pleader
for R13

COMMON ORDER

After hearing the learned counsel for the petitioners and the learned counsel for the respondents, both these writ petitions are being disposed of.

2.W.P.No.19843 of 2020 has been filed for a writ of mandamus to direct the 1st and 2nd second respondents to dissolve the existing Board of directors of the 3rd respondent/Society whose term expired on 19.05.2019 and



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to hold a fresh election to elect a new Board of Directors for the 3rd respondent/Society and to appoint an officer to administrate the 3rd respondent/Society till the election is held.

3.W.P.No.4033 of 2022 has been filed to direct the respondents 1 to 7 to initiate appropriate criminal action against the respondents 8 to 12 for their alleged misconduct against the petitioners and to take appropriate action to ensure that the amounts due and payable to the petitioners by the Government Telecommunication Employee Cooperative Society Ltd., on whose behalf the BSNL Management was deducting the salary of the petitioners towards payment of subscription amount are duly paid to the petitioners from the available funds of the fourth respondent society or by conducting sale of lands belonging to the society and to direct the 3rd and 5th to 7th respondents to ensure that the properties of the 4th respondent is not alienated pending disbursement of the payments due to be paid to the petitioners herein.

4.The specific case of the petitioner in these writ petitions is that the 3rd respondent/Society (in W.P.No.19843 of 2020 who was the 7th respondent



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in W.P.No.4033 of 2022) namely the Government Tele-communication Employees Co-operative Society Limited originally consisted about 23,000 members. However, on account of reduction in various factor the total strength has now been reduced to 987 members. It is submitted that the election to the Board of Directors of the 3rd respondent/Society was last held on 19.05.2014 and therefore they demitted their office on 19.05.2019. However, they continue to hold office.

5.The learned senior counsel for the petitioners submits that in view of the change of circumstances, there should be a direction to the 1st and 2nd respondents to dissolve the Board of Directors, who are the respondent Nos.4 to 11 as they are squatting over and holding the positions, despite their period having come to an end. It is further submitted that proviso to Section 45(5) of the Multi State Co-operative Society Act, 2002 cannot be abused to allow the private respondents to occupy the Board permanently.

6.Opposing the prayer, the learned counsel for the private respondents submits that the writ petition is devoid of merits and they are merely only administrating the affairs of the 3rd respondent/Society in terms of proviso to



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Section 45(5) of the aforesaid Act. It is submitted that if at all any prayer of the petitioner has to be entertained it has to be done only after making proper amendment to the bye-laws of the 3rd respondent/Society.

7.The learned counsel for the Official Respondents 1 and 2 submits that due to the intervening lock down due to the out break of Covid 19, the tenure of the elected members who were elected on 19.05.2014 was extended vide circular issued by the 2nd respondent in W.P.No.19843 of 2020 and that the last extension was given on 13.10.2021 upto 31.12.2021.

8.The learned counsel for the petitioner and the respondents submitted that earlier an order came to be passed by a learned Single Judge of this Court in W.P.No.4099 of 2021 dated 24.09.2021 whereby a direction was given for appointing a retired judge of this High Court to head a Committee to conduct Elections. The said order was set aside by the Hon'ble First Bench of this Court by its order dated 08.02.2022 by holding that by giving a direction to the Central Government to exercise the power under Sections 77 and 122 of the Multi-State Co-operative Societies Act, 2002 and refer the matter to Special Audit within a period of one month from the date of receipt



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of a copy of this order. Till the report is given by the Special Audit, the Society is restrained from selling the land any further.

9.The facts on record indicates that there is a substantial reduction in the strength of the member of the 3rd respondent/Society. The bye-laws which was in force, it is no longer workable as it was last amended on 23.02.2017. There are changes in the circumstances and therefore it requires further amendment in terms of Section 11 of the aforesaid Act, which reads as under:

11.Amendment of bye-laws of a Multi-State Co-operative Society:-

No amendment of any bye-law of a multi-state co-operative society shall be valid, unless such amendment has been registered under this Act.

10.In the light of the above, I am inclined to dispose these writ petitions by directing the respondent Nos.4 and 5 to take steps for amending the bye-laws within a period of three months from the date of receipt of a copy of this order to suit the changed scenario. This exercise shall be carried out under the supervision of the 1st and 2nd respondents. After the



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amendments are made, further appointment of the Board and substitution of the Members Board can be made as per the amended bye-laws.

11.The election shall be conducted strictly within a period of three months thereafter. The entire exercise shall be completed preferably within a period of six months from the date of receipt of a copy of this order. All the issues relating to the claims of the respective petitioners and the other members of the Co-operative Society are left open to canvassed at the later point of time after the amendment to the bye laws come into force.

12.Accordingly, these writ petitions stand disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

16.06.2022

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
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