



W.P(MD)No.19539 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19539 of 2022

Sathiadoss

... Petitioner

Vs.

1.The Joint Registrar (Cooperative),
Nagercoil,
Kanyakumari District.

2.The District Registrar (Cooperative),
Thuckalay,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to dispose the application for no confidence motion, dated 25.07.2022 according to law enumerated in Rule 62 of the Tamilnadu Cooperative Societies Rules, 1988 within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.P.Thilakkumar,
Government Pleader.



W.P(MD)No.19539 of 2022

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ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a member of 1529, Idaicode Primary Agricultural Cooperative Credit Society Limited. The board comprises twelve members. Mr.A.Rajan is its president. Eight members including the writ petitioner gave a requisition to the first respondent for convening a special meeting of the board for removing the president. The requisition was given on 25.07.2022. The first respondent sought explanation from the president. No explanation was forthcoming. That led to the filing of the present writ petition.

3.When the matter was taken up for hearing, the learned Government Advocate submitted that the requisitioners can be called upon to submit fresh requisition, since third days period is about to expire.

4.Rule 62 of the Tamil Nadu Cooperative Societies Rules, 1988, is as follows:-

62. Removal of an elected office-bearer. (1) *An elected office-bearer may be removed by a resolution expressing no confidence in him passed in a special meeting of the board.*

(2) *No special meeting of the board shall be convened unless a*



W.P(MD)No.19539 of 2022

requisition in writing signed by not less than two-thirds of the existing members of the board of the society at the time of such requisition who are eligible to vote at elections is presented to the Registrar.

(3) As soon as such a requisition is received, the Registrar shall communicate a copy of the requisition to the office-bearer concerned, calling upon him to make his representation, if any, within such time as may be specified by him. The Registrar shall, within thirty days from the date of receipt of such requisition arrange to convene a special meeting of the board of the society, for consideration of the resolution expressing no confidence in the office-bearer for which not less than three clear days notice shall be given. A copy or gist of the requisition and of the representation, if any, received from the office bearer concerned shall also be sent to the members along with the notice for the special meeting of the board.

(4) The special meeting of the board shall be presided over and conducted by the Registrar or any officer subordinate to him authorised in this behalf.

(5) The quorum for such special board meeting shall be majority of the existing members of the board who are eligible to vote at elections.

(6) No resolution of the board passing the no-confidence motion against an elected office-bearer and removing him from the office shall be valid unless such a resolution is passed by not less than two-thirds of the members present and voting at the special meeting of the board.

(7) The society shall communicate a copy of such resolution to the office-bearer concerned who shall cease to be such office-bearer from the date of such resolution. In the case of a delegate, such communication shall also be sent to the other society concerned.

(8) If the no confidence motion is not carried by such a majority referred to in sub-rule (6) or if the meeting cannot be held for want of the quorum referred to in sub-rule (5), no requisition for bringing any subsequent motion expressing want of confidence in the same office- bearer shall be received until after the expiry of six months of the date of the meeting.



W.P(MD)No.19539 of 2022

5.The duty is cast on the first respondent to convene a special meeting within thirty days. If he had committed default, the requisitioners cannot be called upon to submit one more requisition. The first respondent cannot take advantage of his own wrong. Therefore, the first respondent is directed to immediately arrange convening of the special meeting of the board for consideration of the resolution expressing no confidence in the president. The first respondent shall of course adhere to the other requirements set out in the aforesaid statutory rule.

6.The writ petition is allowed on these terms. No costs.

24.08.2022

Index : Yes / No

Internet : Yes/ No

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Note:- The learned Government Advocate for the respondents is called upon to communicate this order to the first respondent without waiting for a certified copy of the order.

To:

- 1.The Joint Registrar (Cooperative),
Nagercoil,
Kanyakumari District.
- 2.The District Registrar (Cooperative),
Thuckalay, Kanyakumari District.



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W.P(MD)No.19539 of 2022



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W.P(MD)No.19539 of 2022

G.R.SWAMINATHAN, J.

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W.P(MD)No.19539 of 2022

24.08.2022