



W.A.No.235 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A.No.235 of 2019
and
C.M.P.Nos.2533 and 2538 of 2019

K.Ayyadurai

.. Appellant

Vs.

- 1.The Tamil Nadu State Cooperative
Election Commissioner,
Teynampet, Chennai-600 018.
- 2.The State Election Officer &
The Registrar of Co-operative Societies
No.170, Periyar EVR High Road,
Kilpauk, Chennai-600 010.
- 3.The Regional Election Observer &
The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai.
- 4.The District Election Officer &
The Deputy Registrar of Co-operative Societies,
Cheyyar,
Thiruvannamalai District.
5. HH191 Sunaipattu, Primary Agriculture
Cooperative Credit Society,
Sunaipattu, Vempakkam Taluk,
Thiruvannamalai District.
Represented by its President.



W.A.No.235 of 2019

6.The Election Officer,
HH191 Sunaipattu, Primary Agriculture
Cooperative Credit Society,
Sunaipattu, Vempakkam Taluk,
Thiruvannamalai District.

7.G.Selvaraj
Circle Supervisor,
Thiruvannamalai District Central Co-operative Bank,
Cheyyar Branch,
Cheyyar, Thiruvannamalai District.

8.S.Janarthanam

9.M.Dinakar

10.B.Mohan

11.V.Natarajan

12.A.Perumal

13.B.Gajalakshmi @ Gaja

14.S.Kamala

15.K.Devaki

16.C.Adhikesavan

17.M.Durugan

.. Respondents

Prayer in W.A.No.235 of 2019: Writ Appeal is filed under Clause 15 of letter patent, praying to allow the writ appeal, set aside the order dated 11.12.2018 passed in W.P.No.8712 of 2018 and grant the relief as prayed for by the appellant in W.P.No.8712 of 2018.



W.A.No.235 of 2019

Prayer in W.P.No.8712 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records from the file of the 6th respondent herein relating to the conduct of election to the post of President of the 5th respondent society, and the records relevant their to on the file of the respondents 1 to 4, quash the notification dated 07.04.2018 declaring the 8th respondent has duly elected to the post of President of the 5th respondent society and direct the 6th respondent to confirm the notification issued at about 1.15 PM on 07.04.2018 declaring, the petitioner herein duly elected to the post of President of the 5th respondent society.

For Appellant	: Mr.Richard Wilson for Mr.R.Jeyaram
For R1	: Ms.V.Aishwarya Mr.U.Karunakaran
For R5	: Ms.T.Girija
For R2 to R4, R6 and R7 to R17	: No Appearance

J U D G M E N T

(Judgment of the Court was delivered by V.M.VELUMANI, J.)

The present Writ Appeal is filed to set aside the order dated 11.12.2018 passed in W.P.No.8712 of 2018.



2. Heard Mr.Richard Wilson, learned counsel appearing for the appellant, Ms.V.Aishwarya, learned counsel appearing for the 1st respondent as well as Ms.T.Girija, learned counsel appearing for the 5th respondent and perused the entire materials on record.

3. The appellant has challenged the election of the 8th respondent as President of 5th respondent/Society. According to the appellant, 11 Directors were elected to the 5th respondent/Society. In the election conducted for the post of President, the appellant was elected as President and 7th respondent as 6th respondent/Election Officer declared that the appellant was elected. The 6th respondent affixed the result of election in the notice board, issued certificate to the appellant and also communicated the same to his Higher Officials. Subsequently, the 6th respondent/Election Officer, tore the result affixed in the notice board of the Society and declared that the 8th respondent was elected as President and hence, the appellant has filed the writ petition for the relief sought for above.

4. The 6th respondent/Election Officer has filed counter affidavit stating that in the election for the post of President, the 8th respondent got



7 votes while appellant got only 4 votes. Therefore, the 6th respondent/Election Officer declared that 8th respondent was elected as President of the 5th respondent/Society. Whiles, the appellant along with outsiders threatened the 6th respondent and under coercion, the 6th respondent declared that appellant was elected as President. The 6th respondent in the counter affidavit further stated that there is a dispute with regard to election and the appellant has to approach the concerned forum and the Writ Petition is not maintainable.

5. The learned Judge considering case of the appellant as well as counter affidavit filed by the 6th respondent therein, dismissed the writ petition holding that the appellant has to file a petition under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983.

6. Challenging the said order, the appellant has come out with the present writ appeal.

7. The main contention of the learned counsel appearing for the appellant is that the 7th respondent as 6th respondent/Election Officer acted fraudulently and declared that 8th respondent was elected to the post of



W.A.No.235 of 2019

President of the 5th respondent/Society. After declaring the election and affixing the result in the notice board, the 6th respondent became *functus officio* and subsequent declaration is void *ab initio*.

8. Ms.V.Aishwarya, learned counsel appearing for the 1st respondent submitted that the appellant already approached the Western Zone Committee constituted as per the order of this Court for the redressal of the disputes with regard to election to the Co-operative Societies and the Committee, after considering the issue on merits, rejected the request of the appellant.

9. The learned counsel appearing for the appellant submitted that the appellant has not approached the Committee. He further submitted that no order was passed by the Committee in the appellant's case.

10. It is the case of the appellant that after declaring him as elected as President, the 6th respondent subsequently changed the order and declared that the 8th respondent was elected as President. The issue involved in the writ appeal relates to election of President in the Cooperative Societies. This Court in order to decide the dispute with



W.A.No.235 of 2019

regard to election of Directors and President in Cooperative Society has directed to form committee for each zone. According to the 1st respondent, the appellant had already approached the Western Zone Committee challenging the election of the 8th respondent as President of the 5th respondent/Society and the same was rejected by the Committee.

11. In reply, the learned counsel appearing for the appellant submitted that the appellant did not approach the committee and committee did not pass any order. In view of the order of this Court that a person if aggrieved in the election of Director and President of Cooperative Society, has to approach the committee to decide the dispute. In view of the same, the Writ Petition is not maintainable.

12. For the above reasons, the Writ Appeal is dismissed. No costs. Consequently, the Connected civil miscellaneous petitions are closed.

(V.M.V., J) (R.H., J)
25.01.2023

Index : Yes / No
Neutral Citation : Yes / No
dm



W.A.No.235 of 2019

V.M.VELUMANI, J.
and
R.HEMALATHA, J.

dm

To

- 1.The Tamil Nadu State Cooperative
Election Commissioner,
Teynampet, Chennai-600 018.
- 2.The State Election Officer &
The Registrar of Co-operative Societies
No.170, Periyar EVR High Road,
Kilpauk, Chennai-600 010.
- 3.The Regional Election Observer &
The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai.
- 4.The District Election Officer &
The Deputy Registrar of Co-operative Societies,
Cheyyar,
Thiruvannamalai District.
- 5.The Election Officer,
HH191 Sunaipattu, Primary Agriculture
Cooperative Credit Society,
Sunaipattu, Vempakkam Taluk,
Thiruvannamalai District.

W.A.No.235 of 2019

25.01.2023