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W.P.Nos.12685 & 7757 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.12685 & 7757 of 2023

and

W.M.P.Nos.12469, 12471, 7957 & 7959 of 2023

- 1.P.Shankar
- 2.M.Santhakumar
- 3.T.Murugan
- 4.L.Kannapiran
- 5.T.Bellie
- 6.A.Senthilkumar
- 7.M.Sivalingam
- 8.P.Venkatesh
- 9.M.Srinivasan
- 10.S.Nagaveni
- 11.N.D.Mamtha
- 12.B.Kavithamani
- 13.Sasi Amorpavam
- 14.Sillisai
- 15.N.Meena

.. Petitioners
in both writ petitions

VS

- 1.The Joint Registrar of Cooperative Societies,
The Nilgiris Region,
Additional Collectorate,
Udhagamandalam,
Nilgiris District.

- 2.The Managing Director,
The Nilgiris Cooperative Enterprises Ltd.,
Udhagamandalam,
Nilgiris District.

.. Respondents
in both writ petitions



W.P.Nos.12685 & 7757 of 2023

Prayer in W.P.No.12685 of 2023: Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari calling for the records in Na.Ka.No.4137/2023/A3 dated 17.04.2023 of the 1st respondent under Section 88(1) of the Tamilnadu Co-operative Societies Act superseding the elected management committee and quash the same as arbitrary, illegal and against the statutory requirements by allowing the petitioner's management committee to complete its full term as per the election certificate.

Prayer in W.P.No.7757 of 2023: Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus calling for the records in Na.Ka.No.4137/2022/A3 dated 21.02.2023 submitted under Section 81 of the Tamilnadu Cooperative Societies Act, 1983 and quash the same, direct the respondents to furnish the General Report to the petitioners.

For Petitioners	:	Mr.J.Kamaraj (in both writ petitions)
For Respondents	:	Mr.K.V.Sajeev Kumar Special Government Pleader for R1 (in both writ petitions)

COMMON ORDER

Mr.K.V.Sajeev Kumar, learned Special Government Pleader, accepts notice for R1 and is armed with instructions to enable final disposal of this matter even now. R2 is the Managing Director of the Nilgiris Co-operative Enterprises Limited and the petitioners are elected members of R2.

2. Impugned order dated 17.04.2023 is an order of



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supersession of the Board passed under Section 88 (1) of the Tamilnadu Co-operative Societies Act, 1983 (in short, 'Act'). Between passing of the impugned order and today, Mr.Sajeev Kumar, confirms that no special officer has been appointed and thus, and as R2 cannot be expected to function without a Board of Directors, the petitioners are deemed to be continuing till such time a Special Officer is appointed. This order is passed in light of the aforesaid position.

3. The petitioners have approached this Court twice earlier, once by way of W.P.No.3538 of 2023, which was disposed on 07.02.2023. The prayer was for quashing of a show-cause notice dated 19.12.2022 and the writ petition was closed recording the willingness of the petitioners to cooperate in the enquiry and directing the respondents to furnish a copy of the enquiry report in terms of Section 81 of the Act.

4. The petitioners approached this Court yet again in W.P.No.7757 of 2023 challenging the Section 81 report dated 21.02.2023. That writ petition is pending and when the matter had come up for admission on 13.03.2023, I had recorded as follows:-

".....

3. It is made clear that the proceedings as



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proposed under the impugned communication will go on as it is the respondents' specific case that all the documents relied on by the petitioners and as directed by this court vide order dated 07.02.2023 in W.P.No.3538 of 2023 have been supplied to the petitioners."

5. In light of the order being passed now, W.P.No.7757 of 2023 is directed to be listed under a special list today, is so listed, and is also disposed under this very order. Thus, this constitutes a common order disposing both W.P.No.7757 of 2023 as well as W.P.No.12685 of 2023. The consent of both parties for disposal as aforesaid is recorded.

6. It is the case of the petitioners that the impugned order has not taken note of various factual matrices and that their supersession is incorrect in light of the judgment of the Hon'ble Supreme Court in the case of *State of Madhya Pradesh and others v Sanjay Nagayach and others* (2013) 7 SCC 225.

7. The averments that are put forth before me now touch upon appreciation of various facts and seeing as the impugned order is appealable in terms of Section 152(2) of the Act, it is appropriate that the petitioners approach the appellate authority by way of statutory appeal. Section 152(3) provides for a limitation



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of 60 days from date of receipt of order for filing of an appeal and sub-section (6) thereof provides for appropriate interim relief to be sought and obtained for before the appellate authority.

8. In light of the aforesaid, the following order is passed:-

(i) The petitioners are permitted to file statutory appeal in terms of Section 152(2) of the Act.

(ii) They are also permitted to approach the appellate authority by way of applications seeking interim relief, as appropriate.

(iii) The applications seeking interim relief shall be disposed by the appellate authority within a period of four weeks from date of institution thereof, subject to appeals being maintainable.

(iv) Till such time i.e., for a period of four weeks from the date of institution of stay application or till 17.07.2023, whichever is earlier, status quo shall be maintained by the



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respondents.

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9. Writ petitions stand disposed in terms of the above order. No costs. Connected miscellaneous petitions are closed.

24.04.2023

Index:Yes/No
Neutral Citation:Yes
ssm

Note to Registry : Issue on 26.04.2023.

To:

- 1.The Joint Registrar of Cooperative Societies,
The Nilgiris Region,
Additional Collectorate,
Udhagamandalam,
Nilgiris District.
- 2.The Managing Director,
The Nilgiris Cooperative Enterprises Ltd.,
Udhagamandalam,
Nilgiris District.



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DR. ANITA SUMANTH,J.

ssm

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24.04.2023