



WEB COPY

W.P.No.23595 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.08.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.23595 of 2023 and
W.M.P.Nos.23112 and 23115 of 2023

K.Rajan

...Petitioner

Vs.

1.The Registrar of Co-operative Societies/
State Election Officer,
No.170, NV Natarajan Maaligai,
EVR HighRoad, Poonamallee High Road,
Kilpauk, Chennai-600 010.

2.The Managing Director,
The Thiruvannamalai Central Co-operative bANK,
Gandhinagar,
Thiruvannamalai-606 601.

..Respondents.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari calling for the records of the first respondent in issuance of communication dated 19.05.2023 in Ref.na.Ka.No.18901/2023/Ku.tha 1 and the consequential letter of the 1st respondent in mail dated 26.07.2023 Na.Ka.No.17953/2023/Sa.pa.2(1) and quash the same.



W.P.No.23595 of 2023

For Petitioner : Mr.L.P.Shanmuga Sundaram

For Respondents : Mr.R.Shanmuga Sundaram
Advocate General
Assisted by Mrs.S.Anitha,
Special Government Pleader

ORDER

The writ petition is filed challenging the order passed by the 1st respondent dated 19.05.2023. A similar writ petition filed challenging very same order in W.P.No.17736 of 2023 was already dismissed by this Court on 09.08.2023.

2. In the said writ petition while interpreting 2nd proviso to Rule 56 of Tamil Nadu Co-operative Societies Rules, this Court held as follows:-

“21. In the light of the above said golden rule of interpretation, I do not see any conflict between Proviso 1 and 2 of Rule 56 of TNCS Rules. If the rule making authority wanted to extend benefit of first proviso to circumstances where administrator is appointed owing to default of election commission to conduct election, it would not have included “Section 89” in the second proviso. It could have stopped with inclusion of “Section 88” alone. The very fact



WEB COPY



W.P.No.23595 of 2022

“Section 89” is included in second proviso make it clear rule making authority wanted to make second proviso as an exception to main rule as well as first proviso.

*22. A close reading of Rule 56 of TNCS Rules would make it clear that the Second Proviso acts as an exception to the main rule as well as First Proviso. Therefore, this Court is unable to accept the submissions made by the learned Senior Counsel appearing for the petitioners. The judgments relied on by the learned Senior Counsel for the petitioners in **Barium Chemicals** and **Mohinder Singh Gill** cases cited supra in support of his contention on the question of mala fides and failure to give reason in the order will not advance the case of the petitioners as the impugned order is only clarificatory in nature declaring the status of various delegates like that of the petitioners in the light of operation of Second Proviso to Rule 56 of the TNCS Rules.*

23. It is not as if, by virtue of impugned order the petitioners are ceased to function as delegate. Their status as a delegate of Primary Co-operative



WEB COPY



W.P.No.23595 of 2023

Societies ceased to exist already by virtue of Second Proviso to Rule 56 of the TNCS Rules and the impugned order is merely clarifying that position.

24. In view of the discussions made above, I do not find any valid ground to allow the writ petitions and consequently, both the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed”.

3. Since the issue involved in this writ petition relating to interpretation of Rule 56 of Tamil Nadu Co-operative Societies Act is covered by the order passed by this Court in W.P.No.17736 of 2023, this writ petition is also dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

10.08.2023
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
nr

4/6



W.P.No.23595 of 2022

WEB COPY

To

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- 2.The Managing Director,
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S.SOUNTHAR, J.
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