



WEB COPY



W.P.No.26670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.26670 of 2023
and W.M.P.No.26100 of 2023

S.Balan

...Petitioner

Vs.

1.The Registrar of Co-operative Societies/
Election Officer of Tamil Nadu,
Kilpauk, Chennai – 600 010.

2.The Joint Registrar of Co-operative
Societies,
Having office at Saibaba Colony,
Coimbatore – 641 038.

3.The Deputy Registrar of Co-operative
Societies,
Having office at North Coimbatore,
R.S.Puram,
Coimbatore – 641 002.

4.The Secretary,
K-678, The Coimbatore Co-operative Printing Works Ltd.,
Trichy Road, Near G.H.
Coimbatore – 641 018.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Certiorarified Mandamus, calling for the records of the



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2nd respondent pertaining to his order dated 07.08.2023 in Na.Ka.1718/2023K2(2) and quash the same, consequently the petitioner to retain the Post of Directors till 22.09.2024.

For Petitioner : Mr.Abrarmohamed Abdulla
for Mr.C.Deepak Kumar

For Respondents 1 to 3 : Mrs.S.Anitha
Special Government Pleader

For Respondent 4 : Mr.K.Karthikeyan
Government Advocate

ORDER

The writ petition is filed challenging the order passed by the 2nd respondent appointing an Administrator to the Coimbatore Co-operative Printing Works Ltd., under Section 89 of the Tamil Nadu Cooperative Societies Act, 1983, on the ground that the term of office of the Board is already over.

2.When the matter is taken up for hearing, the learned Special Government Pleader appearing for the respondents 1 to 3 submits that the petitioner was elected as Member of Board of Directors of Singanallur



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Consumer Co-opertaive Store on 07.08.2018, for a period of five years and subsequently, he was elected as President on 11.08.2018. In his capacity as the President of the Singanallur Consumer Co-opertaive Store, the petitioner became delegate of Coimbatore Co-operative Printing Works Ltd., as per Section 26(2)(a) of the Tamil Nadu Cooperative Societies Act,1983. In the election to the Board of Directors of Coimbatore Co-operative Printing Works Limited held on 17.09.2019, the petitioner was elected to the Board of said Society. Since the membership of the petitioner in the primary level Cooperative Societies came to an end by efflux of time, his term of office as delegate has also come to an end and the said position is covered by the decision of this Court in the case of *A.Venkatachalam vs. The Registrar of Co-operative Societies/State Election Officer and others* in W.P.Nos.17736 and 21408 of 2023.

3.In the above mentioned order while considering the status of delegate, whose term as a Member of Primary Cooperative Society is already over was considered by this Court and the relevant discussion reads as follows:



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“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 “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.*



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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 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.”*

4.The order passed by this Court in the above said writ petitions is squarely applicable to the facts of the present case. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.

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To

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