



W.A.No.4033 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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R.Palanisamy

.. Appellant

v.

1. The Tamil Nadu State Co-operative
Societies Election Commission
rep. by its Commissioner
No.273, First Floor
Kamadhenu Super Market Building
Anna Salai
Teynampet
Chennai 600 018
2. The Registrar of Co-operative Societies
No.170, EVR Road
Radhakrishnan Nagar
Razaak Garden
SBI Officers Colony
Arumbakkam
Chennai 600 106



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WEB COPY

3. The Election Officer
E-2577 Naduveerapattu Primary
Agricultural Cooperative Credit Society
Cuddalore Main Road
Cuddalore 607 001

4. K.Maheswari
5. A.Valarmathi
6. M.Palaniammal
7. K.Kumar
8. K.M.Ramadas
9. M.Dhanasekaran
- 10.K.Gurunathan
- 11.N.Mahalingam
- 12.R.Sigamani
- 13.A.Vaithiyalingam
- 14.N.Ramalingam

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 21.10.2019 made in W.P.No.26617 of 2019.

For Appellant :: Mr.M.Jothikumar for
Mr.R.Rajamohan

For Respondents :: Mr.U.Karunakaran for R1
Mrs.Geetha Thamaraiselvan
Special Government Pleader for R2
Mr.M.R.Gokul Krishnan
Addl. Government Pleader for R3
No appearance for R4 to R14



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JUDGMENT

WEB COPY (Judgment of the Court was made by D.KRISHNAKUMAR,J.)

This intra-Court appeal is directed against the impugned order passed by the writ Court allowing the writ petition filed by the 14th respondent herein holding that the election conducted to the Naduveerapattu Primary Agricultural Co-operative Credit Society is null and void with a further direction to conduct fresh election as directed by the Zonal Committee.

2. Learned counsel appearing for the appellant submitted that when a notification was issued for the conduct of election to the respondent-E.2577 Naduveerapattu Primary Agricultural Co-operative Credit Society, 40 candidates filed their nominations and after scrutinizing the same, the nominations of 11 persons were declared valid for the 11 posts and the nominations of others were rejected as invalid and defective. At this stage, the 14th respondent herein filed the writ petition questioning the conduct of election to the society in question, on the ground that the Election Officer has chosen 11 nominations of his choice and declared them as elected



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unopposed. This allegation of the 14th respondent was objected to by the third respondent by filing a counter affidavit stating that the nomination of the 14th respondent was rejected on the date of scrutiny as defective, since many of the columns were left unfilled and the signature of the proposer as well as the seconder varies from the signature found in the admission register. The learned counsel also submitted that when the appellant's complaint of improper rejection of his nomination was directed to be considered by the Zonal Committee constituted pursuant to the direction of this Court, the Zonal Committee has recorded that the election process should be continued from the stage of scrutiny of the nomination forms and following the said direction in letter and spirit, the nomination papers were scrutinized and the nomination of the 14th respondent was rejected by the third respondent-Election Officer. Moreover, it is a well settled legal principle that the writ petition under Article 226 of the Constitution of India filed by the 14th respondent is not maintainable, once the results have been declared and the elected candidates have assumed office, as he has to avail the statutory remedy of raising a dispute before the competent authority under Section 90 of the Tamil Nadu Co-operative Societies Act. Therefore,



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the learned counsel submitted that the writ petition filed by the 14th respondent ought not to have been entertained by the writ Court and for the aforesaid reasons, the impugned order is liable to be set aside.

3. There is no representation for the 14th respondent/writ petitioner.

4. The learned Additional Government Pleader appearing for the third respondent also submitted that when the Division Bench of this Court has passed an order directing the Government to constitute the Zonal Committees to look into the various complaints filed by the aggrieved persons, the appellant herein also approached the Zonal Committee for redressal of his grievance and the same was entertained with a direction to the Election Officer to continue the election process from the stage of scrutiny of the nomination forms. Pursuant to the said direction, the third respondent has scrutinized the nominations of all the 40 candidates and finally declared the nominations of 11 persons including the appellant as elected unopposed and the said elected candidates have also assumed office. Therefore, the writ petition filed by the 14th respondent is not maintainable



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and his remedy is only to raise a dispute under Section 90 of the Tamil Nadu Co-operative Societies Act, if so aggrieved.

5. Having heard the learned counsels appearing for the parties, the only point that arises for consideration before this Court is whether the writ petition filed by the 14th respondent against election dispute is maintainable under Article 226 of the Constitution of India.

6. This issue is no longer res integra, as the Division Bench of this Court in W.A.No.3299 of 2019 dated 18.04.2023 (R.Vasanthi v. A.Senthil Murugan and others), following the earlier orders of the Division Bench in W.A.No.33444 of 2018 dated 10.09.2018 and in W.A.No.1282 of 2013 dated 07.06.2013, has clearly held that the writ petition is not maintainable against election disputes. Even the Full Bench of the Karnataka High Court in the case of *Maruthi v. State of Karnataka* reported in ILR 1990 KAR 1378 and in the case of *B.Gurumallappa v. State of Karnataka* reported in ILR 1991 KAR 577, has held that the High Court can exercise power in election disputes only in the most extraordinary circumstances, as the



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aggrieved party has to avail of the remedy by way of election petition which is a statutory remedy. Further, one of us (D.Krishnakumar,J.) also had an occasion to consider the said issue in the case of *K.J.Churian v. The State of Tamil Nadu represented by its Secretary to Government, Cooperation, Food Consumer Protection Department, Chennai and others* reported in 2017 SCC Online Mad 25405, by holding that a writ petition cannot be entertained and the remedy for the aggrieved person is only to approach the competent authority by way of an election petition/dispute under Section 90 of the Tamil Nadu Cooperative Societies Act.

7. In the case on hand, on the same lines, we are of the view that the writ petition under Article 226 of the Constitution of India filed by the 14th respondent herein cannot be entertained, as the 14th respondent has got an effective and efficacious remedy under Section 90 of the Tamil Nadu Cooperative Societies Act. Therefore, the order of the writ Court is liable to be set aside. In fine, the order of the writ Court is set aside and the writ appeal stands allowed with liberty to the 14th respondent herein to avail the alternative remedy, if so advised, by way of a dispute under Section 90 of



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the Tamil Nadu Co-operative Societies Act before the competent authority,
within a period of four weeks from the date of receipt of a copy of this order.

Consequently, C.M.P.No.25285 of 2019 is closed. There is no order as to costs.

(D.K.K.,J.) (P.B.B,J.)
27.07.2023

Index : yes/no
Neutral citation : yes/no

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