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W.P.No.27479 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.27479 of 2023 &

W.M.P.No.26916 of 2023

Fathima Begum
Vice President
The Yanam Co-operative Stores Limited
No.P-71, Vishnalayam street,
Yanam – 533 464
Union Territory of Puducherry

.. Petitioner

Versus

1. The Registrar
Registrar of Co-operative Societies,
Puducherry
2. The Regional Co-operative Officer,
Co-operative Department,
Yanam Puducherry Union Territory
Puducherry
3. The Yanam Co-operative Stores Limited
rep. By its President,
No.P-71, Vishnalayam Street,
Yanam – 533 464, Puducherry

..Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the letter dated 10.08.2023 made in No.27/COY/Election/2023/31 on



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the file of the Regional Co-operative Officer, Yanam / 2nd respondent and to quash the same and pass appropriate orders.

For Petitioner : Mr.M.A.Aruneshe
For Respondents : Mr.V.Vasanthakumar
Additional Government Pleader (Pondy)

ORDER

This petition is filed for issuance of a Writ of Certiorari calling for the records relating to the letter dated 10.08.2023 made in No.27/COY/Election/2023/31 on the file of the Regional Co-operative Officer, Yanam / 2nd respondent and to quash the same and pass appropriate orders.

2. Heard the learned counsel on either side and perused the documents placed on record.

3.The brief facts of the case is as follows:-

The petitioner is a Vice president in Yanam Co-operative stores Limited and the said society originally registered under the Madras Co-operative Societies Act and now, it is governed under the Puducherry



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Co-operative Societies Act, 1972. The Society's Board consists of 9 members, viz., President, Vice President and 7 members and the term of office shall be for a period of three years and shall be reckoned from 1st April of the year of Election till 31st March of the end of 3rd year, which is according to the bye laws of 31(3) of the Society. The election to the Board of Directors was held on 27.01.2021 and the present Board of Directors along with the petitioner assumed charge on 01.02.2021, thus as per byelaw 31(3) of the society, the period commence from 1st April, 2021 and ends by 31st March 2024. When that being so, it is informed by the 2nd respondent that election has to be conducted for the committee of management as per Section 32(5)(A) of the Pondicherry Co-operative Societies Act, 1972 and Rule 41 of Pondicherry Co-operative Rules, 1973. Further, by way of letter dated 10.08.2023 the 2nd respondent informed that term of the society ends on 30.09.2023, which is contra to the Rules and Regulations and Bye laws of the society, hence this petition.

4. It is the contention of the learned counsel for the petitioner that the 2nd respondent has no jurisdiction to direct conduct of elections for the committee of management before the expiry of the term of office of



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the existing committee and the communication issued by the 2nd respondent is against the provisions of 32(5)(b) of the Act, thereby pleaded to allow the present petition by setting aside the same.

5. On the other hand, it is the contention of the learned counsel for the respondents that the term of office starts from 1st April 2021, the assumption of office also shall be from 1st April, 2021 but the petitioner along with other members have assumed office on 01.02.2021, which forms part and parcel of the term of office from 01.04.2020. If the petitioner is aggrieved by the impugned letter dated 10.08.2023 of the 2nd respondent, the petitioner could have represented the same to the RCS(R1), but the petitioner rushed to this Court without exhausting the efficacious remedy available. Further, the petitioner is only a vice president of the committee of the stores and the rest of the persons of the committee neither submitted any representation to the RCS nor filed any Writ before this Court, which shows that except the petitioner, the rest of the Directors abide the provisions of the Act and Rules. Thus the prayer of the petitioner is unlawful and and not valid, thereby pleaded to dismiss the petition.



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6. It is pertinent to note that earlier, on 10.12.2020, the then Administrator of the stores resolved to conduct election to the committee of management of the stores for the period from 01.02.2021 to 31.03.2023 and the election was conducted as per the election notice dated 21.12.2020. The present committee of management including the petitioner were elected for the period 01.02.2021 to 31.03.2023 and the present committee assumed its office on 01.12.2021. As such, even assuming that they are entitled to be in office for a continuous period of 3 years from the date of assumption of office, they are entitled to be in office till 31.01.2024.

7. This Court, on 20.09.2023, granted an Interim stay of all further proceedings pursuant to the letter dated 10.08.2023 made in No.27/COY/Election/2023/31 on the file of the Regional Co-operative Officer, Yanam, 2nd respondent herein. Subsequently, the interim order was extended till 08.11.2023 and thereafter, it was not extended. Further, as per the memo filed by the learned Additional Government Pleader (Pondicherry) for R1 and R2, it is seen that except the petitioner, other members and office bearers did not show any interest



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to continue beyond the said tenure of 30.09.2023 and also did not take any steps to conduct election to the committee of management.

Further, during the interim stay period, the elected committee of management has not discharged any functions in the society till 31.01.2024 and therefore, the day today activities of the society could not be proceeded which led to the nonpayment of salary to the stores employees as well as non procurement for business activities.

8. On going through the records, it is seen that in order to run the day today affairs of the society, which is stalemate for six months, the Registrar of Co-operative Societies has appointed one Mr.Sankar, Senior Inspector, Yanam, as the Administrator of the Yanam Co-operative Societies vide Proceedings No.5/4/2/12/RCS/CONS/H2/2013 dated 29.02.2014 in addition to his normal official duties. Therefore, this Court is of the view that for conducting day today affairs of the society, the Management has to be formed and the said Administrator shall take appropriate action to conduct election to the Committee of Management of the Yanam Co-operative Stores Ltd., No.P71, as per existing bylaws, within a period of four months, i.e., on or before 31.08.2024.



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In view of the above, the Writ Petition is disposed of.

Consequently, connected miscellaneous petition is closed. No costs.

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Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

ssd

To

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V.BHAVANI SUBBAROYAN, J.

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