

W.A(MD).No.847 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 18.09.2025

PRONOUNCED ON : 25.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.847 of 2020
and
CMP(MD).No.4711 of 2020

S.Krishnakumar

President

Aralvaimozhi Primary Agricultural Co-operative

Credit Society, Aralvaimozhi

Kanyakumari District

...Appellant/4th Respondent

Vs

1.S.Murugesan

...1st Respondent/Petitioner

2.The Registrar of Co-operative Societies

NV Natarajan Maligai, E.V.R. Periyar Salai

Kilpauk, Chennai – 10

3.The Joint Registrar of Co-operative Societies

Kanyakumari Region at Nagercoil

Kanyakumari District

4.The Deputy Registrar of Co-operative Societies

Nagercoil Circle, Nagercoil

Kanyakumari District

...Respondents 2 to 4

/Respondents 1 to 3

5.C.Muthukumar

...5th respondent/---

(5th respondent is impleaded as per order of this Court dated 07.01.2025)



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 03.09.2020 made in WP(MD).No.7710 of 2020 by this Court and thereby dismiss the writ petition.

For Appellant : Mr.D.Shanmugaraja Sethupathi

For Respondents :Mr.T.Cibi Chakraborty for R1

:Mr.P.T.Thiraviyam
Government Advocate for R2 to R4

:Mr.M.Mahaboob Athiff for R5

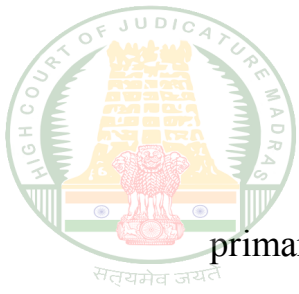
J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The 4th respondent in WP(MD).No.7710 of 2020 has filed the present writ appeal challenging the order of the writ Court wherein he has been found to be disqualified to be a member of the Co-operative Credit Society.

(A)Factual Matrix:

2.The appellant herein is a member of Aralvaimozhi Primary Agriculture Co-operative Credit Society. He contested the election for Board of Director in Kanyakumari District Co-operative Union and got elected as President. Immediately, after declaration of results, one George Newton had filed WP(MD).No.20303 of 2019 challenging the final list of Elected Board of Directors of the Kanyakumari District Co-operative Union Limited



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primarily on the ground that the appellant herein is running a Private Finance Company in the name and style of 'M/s.Balaji Finance' which is in violation of the Co-operative Societies Act. This Court by an order dated 20.09.2019 held that once results have been declared, the Court cannot interdict to the process. However, granted liberty to the petitioner therein to approach the Chief Election Commissioner, Tamil Nadu State Co-operative Societies to ventilate his grievance. However, there are no records to show that the petitioner therein had approached the Chief Election Commissioner.

3.One S.Murugesan has given a representation to the 4th respondent herein on 24.06.2019 seeking to disqualify the appellant herein on similar grounds. Since the said representation was not considered, he had filed WP(MD).No.17084 of 2019. This Court by an order dated 24.01.2020 had directed the respondents to consider the representation of the petitioner herein and to pass orders in accordance with law.

4.In compliance with the order of this Court in WP(MD).No.17084 of 2019, the 4th respondent herein had conducted an enquiry and passed an order on 21.02.2020 to the effect that the appellant herein has not suffered any disqualification. Challenging the said order, Mr.Murugesan had filed the above writ petition in WP(MD).No.7710 of 2020. The writ Court by its order dated 03.09.2020 after considering the provisions of the Tamil Nadu Co-operative Societies Act, had set aside the order the 4th respondent and



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allowed the writ petition wherein a direction was issued to disqualify the appellant herein from the basic membership of the Society. This order is put to challenge in the present writ appeal.

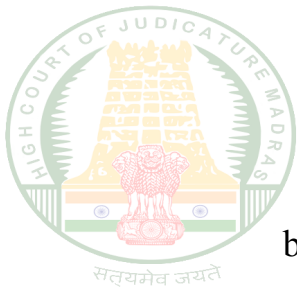
(B).Submissions before the Writ Court:

5.The primary contention of the writ petitioner before the writ Court was as follows:

a)As per byelaws of the Society, a member should not engage himself in any business or industry which would be similar to that of the Society or would be not in consonance or cause prejudice to the functions of the Society. Mr.S.Krishnakumar is running a Pawn Broker Shop in the name and style of 'M/s.Balaji Finance' for which the license stands in the name of his wife. Offering loan to the member of the Society by pledging of the jewels is one of the main functions of the Society. Therefore, Mr.S.Krishnakumar is directly involved in a business which is contrary to the byelaw.

b)Though the Pawn Broker license stands in the name of Krishnakumar's wife namely Sri.Bindhu, Mr.Krishnakumar is shown as a nominee in the said license.

c)Mr.Krishnakumar has taken a shop on lease from Nagercoil Municipality in his name and in the said shop, the pawn



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broker business is being run.

WEB COPY 6.The appellant herein had contended as follows:

(a).That the Society is being run in a different place and it does not have any jurisdiction in a place where pawn broker business is being conducted by his wife.

(b).The pawn broker business does not stand in the name of the member, but it stands in the name of his wife alone. As per statutory license format, a nominee has to be mentioned in the license for the purpose of ensuring smooth return of pledged jewels in case of death of the licensee or closure of business. Just because a member of the Society is shown as nominee, it does not mean that the nominee is running the business.

(c).Though the shop allotted to the member of the Society by Nagercoil Municipality is used by the member's wife to run a Pawn Broker Shop, it does not in any way determine that the member himself is running the Pawn Broker Shop. The member is no way involved in the day to-day affairs of the Pawn Broker Shop.

(C)Findings of the Writ Court:

7.The writ Court has set aside the order of the Deputy Registrar of Co-operative Societies and had issued a direction to him to declare that the appellant had been disqualified after recording the following findings:



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a)The Society may be situated in Aralvaimozhi and the pawn broker business may be conducted in Nagercoil, but it is an irrelevant consideration.

b)Though the pawn broker license stands in the name of member's wife, this itself may not be decisive or determinative of the issue.

c)The member has been designated as nominee for the business run by his wife and it is being carried on in a premise which has been allotted to a member. The facebook posts of the member indicate that the member has claimed that he is running the pawn broker business and the social media posts have not been denied by him.

d)Individually taken, any of the circumstances may not be decisive or determinative, but when considered cumulatively, the inference undoubtedly goes against the member.

e)During the proprietorship of the member, his wife came to acquire pawn broker license, the member has been designated as nominee and the business is being run in the premises allotted to the member. The member has celebrated the first anniversary function of the pawn broker business and he had clearly



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projected himself as the proprietor of the said business.

f)Therefore, he had indirectly undertaken a business similar to that of a Society of which he is the President. Of course, there is absolutely no material to establish that they are doing so, the interest of the Society had been prejudiced, but that is an irrelevant consideration.

g)The disqualification provision envisages several circumstances. Even if one of them is satisfied, consequences have to follow. The disqualification is straightaway attracted. The Deputy Registrar of Co-operative Societies has not considered the cumulative weight of the circumstances projected by the compliant.

8.Based upon the above said findings, the writ Court had allowed the writ petition and issued a direction to the Deputy Registrar to disqualify the appellant herein from the basic membership of the Co-operative Credit Society. Challenging the said order, the present writ appeal has been preferred.

(D).Submissions in Writ Appeal:

9.The learned counsel for the appellant submitted that merely because a member of the Society has been shown as a nominee that would not make

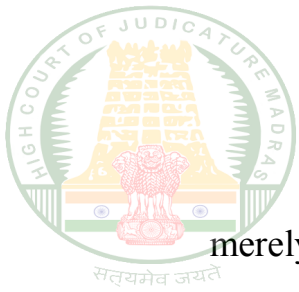


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him as the proprietor of the business. The nominee is expected to continue the business only on the death of the original licensee in order to safely return the pledged jewels. The social media posts cannot convert the business run by the wife as that of her husband. That apart, no authenticity has been placed on record to show that these posts were published by the appellant. As per byelaws of the Society, the area operation of the Society is restricted to certain villages. On the other hand, the Pawn Broker Shop is run at Nagercoil which is outside the jurisdiction of the Credit Society. This fact has not been properly appreciated by the writ Court.

10. The learned counsel for the appellant had further submitted that if a business is carried on by the wife, in a shop standing in the name of the husband, it does not mean that the husband is running the business. Especially when a license issued by a statutory authority to run the said business stands in the name of the wife. He had further submitted that the plea relating to the order of disqualification results in serious civil consequences and therefore, the said plea should be construed very strictly in the light of the statutory provisions. It cannot be liberally construed so as to result in disqualification. The learned counsel had further submitted that when the writ Court has arrived at a finding that each one of the instances would not attract disqualification, ought not to have allowed the writ petition



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merely on the ground that a cumulative reading of the circumstances would lead to disqualification. Hence, he prayed for allowing the writ appeal.

11.The writ petitioner has been arrayed as the first respondent in the writ appeal and he has not chosen to appear despite notice. One C.Muthukumar has got himself impleaded as 5th respondent (another member of the Society) to defend the order passed by the writ Court.

12.The learned counsel for the 5th respondent submitted that the primary function of the Co-operative Society is to lend jewel loans on pledging of jewels. Therefore, starting of a Pawn Broker Shop by the member in the name of his wife would certainly attract disqualification. A member cannot escape from the provisions of disqualification merely by taking a Pawn Broker License in the name of his wife. The wife is just a name lender. The social media posts about the said business clearly indicate that the business is run by the member and not by his wife. The member has been allotted a shop in Nagercoil Municipality in an auction. The said shop is being utilized by the wife to run the Pawn Broker Shop. Therefore, the writ Court has rightly taken into consideration the cumulative effect of all circumstances and has proceed to disqualify the appellant. Since the appellant has masked itself, the writ Court had rightly considered the circumstantial



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facts and has passed direction to disqualify him. Hence, he prayed for sustaining the order passed by the writ Court.

13.The learned Government Advocate appearing for the 4th respondent submitted that since Pawn Broker License stands in the name of the member's wife, it would not amount to disqualification. He relied upon the proceeding of the Committee on Co-operative Societies Election dated 13.02.2019 wherein it was held that merely because a member of the Society is a nominee in a Pawn Broker License, that would not be a disqualification for contesting the election.

14.We have carefully considered the submissions made on either side and perused the material records.

(E).Analysis:

15.Section 23 of the Tamil Nadu Co-operative Societies Act, 1983 deals with disqualification for membership of a Society. Section 23(1)(e) is relevant for the purpose of deciding the writ appeal and the same is extracted as follows:

“23.Disqualifications for membership of Society:-(1)No person shall be eligible for admission as a member of a society, if he-



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(e)is engaged directly or indirectly in a business or industry or activity similar to that of the registered society or inconsistent with, or prejudicial to the work of the registered society; or”

16.Now the issue that arises for consideration is whether the appellant had engaged directly or indirectly in a business or industry which is similar to that of a registered society. We have to find out whether the alleged business is inconsistent with or prejudicial to the work of the registered Society.

17.A perusal of Clause-I of the byelaws of the Society reveals that the jurisdiction of the Society is restricted to Aralvaimozhi Town Panchayat and some villages in Thovalai Panchayat alone. Clause -8(1) of the byelaws reveals that only a person aged about 18 years and who has got the eligibility to enter into a contract and who resides within the jurisdiction of the Society would be entitled to become a member. A cumulative reading of these two Clauses in the byelaws will clearly indicate that the membership of the Society is restricted to the persons who are residing in Aralvaimozhi Town Panchayat and certain villages in Thovalai Panchayat.

18.The Pawn Broker Shop run by the appellant's wife is located in Nagercoil Municipal area. The business operation of the society does not



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extend to Nagercoil Municipal area. The Court can take judicial notice of the fact that the interest rate for a jewel loan in a Co-operative Credit Society are much lesser than the interest rate of the pawn broker. The Society being a Primary Agriculture Co-operative Credit Society, the Government often waives the interest also. In such circumstances, the Pawn Broker Shop located 16 km away from the area of operation of the Society would not in any way be prejudicial to the interest of the members of the Society.

19.Rule 3(2) of Tamil Nadu Pawnbrokers Rules, 1943 is hereby extracted for easy reference:

“3(2).Every person, while applying for a licence, shall mention in the application the name of a person as his nominee who is equator more than equal to him insolvency and of good character with his written consent that if the applicant is granted a licence and if during the period of licence, the licensee dies or surrenders the licence as the case may be, and at the time, if any article pledged with the licensee is not redeemed or disposed of, he (the nominee), shall, after getting a licence from the licensing authority, continue to carry on business as a pawnbroker at the same shop owned or occupied by the licensee at least for a period till that pawned article is redeemed or disposed of, as the case may be, in accordance with the provisions of the Act.”

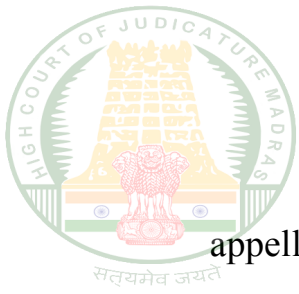


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WEB COPY 20. The pawn broker license stands in the name of the wife of the appellant. The appellant is shown only as a nominee in the said license. The role of nominee comes alive only when the licensee dies or suddenly closes the business. The role of nominee is for proper return of the pledged jewel in case of death or closure of business. Therefore, it cannot be contended that the nominee is running the Pawn Broker Shop. Such an interpretation would be against the terms of license issued by the statutory authority. The social media posts which do not have any authenticity with regard to their origin, cannot be relied upon and that too against the Clauses found in the statutory license.

21. It is no doubt true that the Pawn Broker Shop is being run in a shop that was allotted to the appellant by Nagercoil Municipality in an auction. The location of the shop would not determine the proprietorship of the Pawn Broker Shop which again would be in violation of the Clauses in the pawn broker license.

22. When the issue of operation of the Society was brought to the notice of the writ Court, the writ Court had held that the said issue is an irrelevant one. The writ Court had further found that the projection made by the



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appellant in the social media cannot lead to any conclusion. The writ Court had further found that the name of the appellant incorporated as a nominee in the pawn broker license, is not by itself decisive or determinative of the issue. The writ Court further found that individually taken any of these circumstances are not decisive or determinative. But has proceeded to draw inference that the appellant is running a pawn broker shop in his wife's name within the operating circle of the Co-operative Society. Therefore, it is clear that the findings of the writ Court are clearly based on inference alone.

23.The Hon'ble Supreme Court in a judgment reported in **(1999) 4 SCC 517 (Ranjeet Singh Vs. Harmohinder Singh Pradhan)** while interpreting Section 9-A of the Representation of the People Act, 1951, dealing with disqualification of the candidate was pleased to hold as follows in Paragraph No.7:

“7.Section 9-A is a statutory provision which imposes a disqualification on a citizen. It would, therefore, be unreasonable to take a general or broad view, ignoring the essentials of the Section and the intention of the legislature. Purposive interpretation is necessary....”



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24.The Hon'ble Supreme Court in a judgment reported in **(2001) 7**

SCC 425 (Shibu Soren Vs. Dayanand Sahay and others) in Paragraph No.36

has held as follows:

“36.The question whether a person holds an office of profit, as already noticed, is required to be interpreted in a realistic manner having regard to the facts and circumstances of each case and relevant statutory provisions. While 'a strict and narrow construction' may not be adopted which may have the effect of 'shutting off many prominent and other eligible persons to contest the elections' but at the same time "in dealing with a statutory provision which imposes a disqualification on a citizen it would be unreasonable to take merely a broad and general view and ignore the essential points".

25.The Hon'ble Supreme Court in a judgment reported in **(2005) 1**

SCC 754 (K.Prabhakaran Vs. P.Jayarajan) in paragraph No.59 has held as follows:

“In Shibu Soren Vs. Dayanand Sahay a three-Judge Bench of this Court was seized of the question of examining a disqualification on account of the person at that time holding an office of profit. The Court held that such a provision is required to be interpreted in a realistic manner having regard to the facts and circumstances of each case and the relevant statutory provisions. While "a strict and narrow construction" may not be adopted which may have the effect of "shutting off many prominent and other eligible persons to contest elections" but at the same time



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"in dealing with a statutory provision which imposes a disqualification on a citizen, it would not be unreasonable to take merely a broad and general view and ignore the essential points".(SCC p.447, para 36).

What is at stake is the right to contest an election and hold office. "A practical view, not pedantic basket of tests" must, therefore, guide courts to arrive at appropriate conclusion. The disqualification provision must have a substantial and reasonable nexus with the object sought to be achieved and the provision should be interpreted with the flavour of reality bearing in mind the object for enactment.

26.A cumulative reading the judgments of the Hon'ble Supreme Court with regard to interpretation of statutory provisions which imposed a disqualification, the said statutory provision cannot be read in an unreasonable way to take a broad and general view and ignore an essential points. The said provision has to be interpreted in such a way that it should have a substantial and reasonable nexus with the object sought to be achieved bearing in mind the object of the enactment.

27.The disqualification of a member has got serious civil consequences which permanently excludes a member from seeking admission to the Co-operative Society. Therefore, the findings cannot be based upon the inference drawn from the facts which do not have any reasonable nexus with regard to the object of the enactment.



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28.In the present case, as pointed out supra, the society's operation does not extend to the place where the pawn broker shop is located. The license of the pawn broker shop stands not in the name of the member, but in the name of his wife. The social media posts projecting proprietorship of the pawn broker shop as that of the appellant, without authenticity cannot be a ground for disqualification. In fact, there are no pleadings or any document to the effect that running of the Pawn Broker Shop by the appellant's wife is inconsistent with or prejudicial with the work of the Society.

29.In such circumstances, the writ Court was not right in disqualifying the membership of the appellant merely on the basis of conjecture and surmises, especially when the provisions of disqualification require a strict interpretation in the light of the object of the enactment. Therefore, the order of the writ Court calls for interference.

30.In view of the above said deliberations, the order of the writ Court is set aside and the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K.J.,) (R.V.J.,)
25.09.2025.



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To

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NV Natarajan Maligai, E.V.R. Periyar Salai
Kilpauk, Chennai – 10

2.The Joint Registrar of Co-operative Societies
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3.The Deputy Registrar of Co-operative Societies
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**C.V.KARTHIKEYAN,J.
AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
W.A(MD).No.847 of 2020
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25.09.2025