

(1966) 03 MAD CK 0033

In the Madras High Court

Case No : Writ Petition No. 4821 of 1965

S.K. Sambandam

APPELLANT

Vs

The South Arcot Co-Operative Central Bank Ltd.

RESPONDENT

Date of Decision : 10-03-1966

Acts Referred:

Citation : (1966) 03 MAD CK 0033

Hon'ble Judges : Kailasam, J

Bench : Single Bench

Advocate : S.K.L. Ratan, for the Appellant; R.M. Seshadri for Mr. R.G. Rajan, for the Respondent

Final Decision : Dismissed

Judgement

Kailasam, J.—This petition is filed for the issue of a writ of a prohibition prohibiting the South Arcot Co-operative Central Bank Ltd., Cuddalore, from holding the election on 23rd December. Three members of the Committee of Management retired by rotation and their office fell vacant with effect from 1st January, 1966. In respect of the three seats, one member representing the non-credit societies which are affiliated to the Bank is to be elected and the remaining two should be representatives of individual members of the Bank. According to bye-law all the representatives have to be elected by the general body. A notification for general body meeting was published on 20th November, 1965. The representatives of the Non-credit Societies affiliated to the Bank and the individual members were notified about the meeting. They were directed to bring with them form of delegation properly filled up. The notification specified the time for receipt of nomination, scrutiny, declaration of the result etc In pursuance of the notification, five nomination papers were received. Two nominations were for individual constituencies and two other nominations, from the Non-credit Society representatives. So far as the nomination of the petitioner was concerned, the constituency was not mentioned. The Committee took up scrutiny of the nomination papers and finding that the nomination paper of the petitioner

did not disclose the constituency and as no information was available as to the choice of the petitioner, they rejected the nomination of the petitioner. Of the nomination papers filed by the two candidates at representatives of the Non-credit Societies, the nomination of one of them, P. O. Narayanaswami Padayachi, was rejected and the only valid nomination was that of T.A. Ramalingam. General body meeting was convened to meet on 23rd December, 1965 for election in the event of contest. But the petitioner filed this writ petition and obtained an order of interim injunction on 21st December, 1965 and the meeting scheduled on 23rd December, 1965 did not take place.

2. It is contended on behalf of the petitioner that the rejection of the nomination paper of the petitioner is illegal and unsustainable. It is submitted that the petitioner filed Form No. 3 properly as required by R. 29 (3) (i) of the Madras Co-operative Societies Rules, 1963, furnishing all particulars. According to the petitioner the rule does not contemplate the mention in the nomination form the constituency for which he is standing for election, R. 29 (3) (1) provides that the nomination of a candidate for election shall be made in Form No. 3. Sub-R. (iii) requires that the nomination papers should be presented to the President of the Society before the date and hour specified in the notice. Sub-R. (iv) states that the person who receives the nomination paper shall enter on the nomination paper in serial number and certify the date and hour at which the nomination paper is received by him and also immediately acknowledge receipt of the nomination paper. Under R. 29 (6) (1) (b) the Committee is to examine the nomination papers and decide all objections which may be made at the time to any nomination and may either on such objection or on Its own motion after such summary enquiry, if any, as the Committee think necessary, reject any nomination for valid reasons. The proviso is to the effect that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder, or of any other particulars relating to the candidate or his proposer or seconder, if the identity of the candidate is established beyond reasonable doubt.

3. It is admitted that the general body meeting convened on 23rd December 1965 was for election of three representatives, one representing the Non-Credit Societies and the other two representing the individual members. Though Form No. 3 was properly filled up, information as regards the constituency for which the petitioner is contesting is not given. Under the Rule the Committee scrutinising nomination papers shall conduct such summary enquiry as may be necessary before rejecting the nomination. While the contention of the learned Counsel for the petitioner is that the petitioner has given all the particulars required by the rules, the learned Counsel for the respondent submitted that the scrutinising Committee had no means of ascertaining the choice of the petitioner, as neither the petitioner nor his representative was available at the time of scrutiny of the nomination papers. The question raised is whether the nomination of the petitioner was rejected after the necessary summary enquiry as required by the rule.

4. The learned Counsel for the respondent submitted that according to R. 29 (9) when there is only one valid nomination for one seat, the person for whom the valid nomination has been received shall be deemed to have been elected for the constituency and his name shall be published in the notice board of the society. In fact the name of T. A. Ramalingam was published as the successful candidate under the rule. According to the learned Counsel for the respondent, this would amount to declaration of result of the election and the dispute ought to be referred to the Registrar under S. 73 of the Madras Co-operative Societies Act. He also contended that in this petition neither the successful candidate nor the scrutinising Committee is made parties. There is considerable force in these two preliminary objections taken by the learned Counsel for the respondent. In addition to these two objections, it has to be noted that the relief asked for is for a writ of prohibition for prohibiting the Bank from holding the election on 23rd December 1965. It is not prayed that the rejection of the nomination paper should be held to be illegal. In view of these valid technical objections this writ petition will have to be dismissed.

5. Though it has been held that this Court has jurisdiction to interfere with the order of the scrutinising Committee rejecting nomination papers, as no relief is provided to the person whose nomination is rejected till the declaration of the result, the petitioner is not entitled to the relief as a matter of course. As the petitioner is entitled to other remedies and as the question whether the nomination had been properly rejected after the summary enquiry or not can be gone into more satisfactorily in these proceedings, I decline to interfere in this writ petition. The petitioner is entitled to put forward all his contentions in the proceedings which he may take. The writ petition is dismissed with costs. Counsel's fee Rs. 100. Rule nisi is discharged.