


Tamil Nadu State Cooperative Societies Election Commission

From
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Commissioner,
Tamilnadu State Cooperative Societies
Election Commission,
273, Anna Salai,
Teynampet, Chennai-18.

To
The State Election Officer

Rc.No.4049/2013/CE.5,

Dated:16.07.2013

Sir,

Sub : Election – Election to Co-operatives – Election of Members and Office Bearers of the Boards of Co-operative Societies in the State – Offences relating to the conduct of Election to Co-operatives – Launching of prosecution against the offenders – Procedures – Regarding.

In the recently held meeting of the State Election Officers, certain doubts were raised **in the matter of launching prosecution**, against those persons who either individually or in a group have alleged of committed certain serious offences before, during or after the election of members or office bearers of the boards of the co-operatives at anyone or all of its stages from the publication of voter list to the final declaration of duly elected members and / or office bearers.

Section 162 (punishment for adopting corrupt practice in elections of members of the board or office bearers of the board) of the Tamil Nadu Co-operative Societies Act,1983 details the nature of offences relating to the conduct of election.

Any prosecution, against the person concerned, under section 162 of the Act has to be instituted **as provided under section 164(3) of the Act**.

In respect of cases coming under the control of the State Election Officer / Registrar of Co-operative Societies, the guidelines for launching of prosecution under section 164 (3) are given in paras 1.4 and 1.5 under **Chapter IX ‘offences under the Tamil Nadu Co-operative Societies Act, 1983’, of the Tamil Nadu Co-operative Manual** (Corrected upto 2009) (An extract is enclosed for ready reference).The same may be adopted for such cases coming under the control of other Functional Registrar / State Election Officers also with necessary modification.

It is also to be noted that as provided under section 164-A of the Act, any action taken against any person under the Act, **will not affect, and will be in addition to**, any other proceedings by way of investigation or otherwise which might apart from this, be instituted against him.

The District Election Officers may be informed accordingly.

(Sd../-)
Commissioner

Secretary

An extract of paras 1.4 and 1.5 Chapter IX of the Tamil Nadu Co-operative Manual (Corrected upto 2009)

1.4. Section 164 (3) of the Tamil Nadu Co-operative Societies Act, 1983 provides that no prosecution shall be instituted for offences under the Act without the previous sanction of the Registrar. In respect of Primary and Central Societies the Joint Registrars and in respect of only primary societies, the Deputy Registrars are competent to accord sanction for prosecution under section 164 (3) of the Act, as per the existing conferment of the powers of Registrar under the said section as ordered in G.O. (2.D) No.108 CF&CP Department dated 31.08.2005. They need not therefore refer such cases to the Registrar for sanction of prosecution. Orders sanctioning prosecution should be recorded in the form of proceedings in the respective files. Such order should briefly refer to the facts of the case warranting the sanction of prosecution. As required under this section no sanction shall be given without giving to the person concerned a reasonable opportunity to represent his case. Since the offences under the Tamil Nadu Co-operative Societies Act, 1983 are non-cognizable, the cases should not be reported to the Police for action. In such cases, the Joint Registrars and the Deputy Registrars may consult the concerned Public Prosecutor or the Assistant Public Prosecutor, get the charge-sheet prepared and file it through him in a Court of a Metropolitan Magistrate or a Judicial Magistrate concerned. The conduct of the case should be watched until it is disposed of.

1.5 As soon as a prosecution under section 164 (3) is sanctioned and a compliant is filed in the Court, the Joint Registrars and Deputy Registrars should report the matter to the Registrar together with a copy of the compliant. They should also submit in due course a copy of the judgement with their remarks on any comment made in the judgement.