



TamilNadu State Co-operative Societies Election Commission

From
Thiru. M.R. Mohan, I.A.S., (Retd.)
Commissioner,
TamilNadu State Co-operative Societies
Election Commission,
273, Anna Salai,
Teynampet, Chennai – 18.

To
All State Election Officers

Rc.No.5477/2013/CE5

Dated: 31.01.2014

Sir,

Sub: Election – Conduct of Election of Members and Office Bearers of the Boards of Co-operative Societies in the State – Request for clarifications on certain matters – The Constitution of Interim Board by liquidators – Regarding.

The Commission wishes to bring to your kind notice that some State Election Officers through some communication and also during the recently held meeting of the State Election Officers solicited some instructions, clarifications and guidelines from the Commission on certain matters which, interalia, include the following:

- (1) Sending, receiving and accepting resignations of Members and Office Bearers (President & Vice President) of the Board of a Co-operative Society.
 - (2) Resignation of all Members including the President & Vice President of the Board of a Co-operative Society.
 - (3) Expulsion and Removal of Members and Office Bearers (President & Vice President) of the Board of a Co-operative Society.
 - (4) Elected Members / Board fails to enter or prevented from entering
 - (5) Stalemate in the functioning of the Board
 - (6) Continuing the Administrator beyond the period as stipulated under the Tamil Nadu Co-operative Societies Act, 1983
 - (7) Appointing an Administrator or any other designated person to manage the affairs of the society till such time the stalemate is cleared and the already constituted Board Commences its normal function
 - (8) Acceptance of Resignation by District Election Officers**
 - (9) On restoration of a society ordered to be wound up, handing over the management by the liquidator to an Interim Board**

In general the Commission wants to make it clear that, as all the Officer are already aware, the Commission is for the **Superintendence, Direction and Control of the preparation of electoral rolls for, and conduct of election to a Co-operative Society** as provided under section 33(11)(b) (Constitution of the Board) of the Tamil Nadu Co-operative Societies Act, 1983 with powers and function as laid down under rule 52, 52A and 53 of the Tamil Nadu Co-operative Societies Rules, 1988, and that the Commission will commence proceedings under Rules 52(1)(a) & (b) of the rules for the conduct of elections for any vacancies that may arise in a society and as reported by the society.

Points (1) to (7)

The Commission therefore observes that the points raised, under (1) to (7) above are matters related to the **post constitution of the Board** of a society and are purely within the administrative domain of the Several Registrars of Co-operative Societies and therefore do not require any instructions, guidelines or clarification from the Commission.

Point – (8)

Regarding the point under (8), the Commission desires to say categorically that the District Election Officers have no role and nothing to do with any of the processes connected with the resignation of Members and Office Bearers of the Board of a Co-operative.

Point – (9)

As regards point (9), the Commission wants to state that though the subject – ‘restoration of a society ordered to be wound-up under section 142 of the Act’ – does not fall within the purview of the commission it considers that it is absolutely necessary and is duty bound to clarify, since the matter of constitution of the board of a society under section 33, through the conduct of election, is the prerogative of the Commission, as mandated under section 33(11)(b) and read with section 33-A(1) of the Act.

For an easy and immediate reference, section 142 of the Act is reproduced here under:-

Section 142: (Restoration of society ordered to be woundup:-)

“Where, in the opinion of the Registrar, a registered society which has been ordered to be wound-up, may be restored to a board constituted in accordance with the provisions of this Act, the rules and the bye-laws, he may, at any time before the affairs of the society have been completely wound-up, cancel or withdraw the order of winding-up in consultation with the board of the financing bank and direct the Liquidator to constitute a board in accordance with the provisions of this Act, the Rules and the bye-laws and hand over the management of the registered society to such board”.

A careful and close reading of the said section clearly shows that the Registrar, under section 142 may direct **the Liquidator to constitute a board in accordance with the provisions of the Act, Rules and bylaws and hand over the management of the society to such board.** And as such, there is no mandate for the constitution of an interim board either by the Liquidator or by the Registrar and handing over the management **to such an interim board.**

It may also be noted here, that the fourth proviso to sub section (1) of section 33 provides for the constitution of interim board in certain circumstances and which says:-

"In the case of a society registered after the commencement of this Act, the persons who have signed the application to register that society may constitute an interim board to conduct the affairs of that society".

In such a scenario, the restoration under section 142 of the act does not also fit into the above said criteria, classification and category, in as much as, a society ordered to be wound up is distinctly different from that of a newly registered society.

And it is therefore very much clear and certain that the management of a society ordered to be wound up under section 142 of the act **cannot be entrusted to any interim board but only to a board constituted through the conduct of election as per the** provisions of the Act ie., as per section 33 of the Act.

The Commission therefore desires all the State Election Officers who are also "The Registrar" under section 3 read with section 2(23) of the Act to examine carefully the issue of **constitution of an interim board** wherever required and act accordingly.

(Sd./-)

Commissioner

Copy to:-

- 1) All the Observers
- 2) All the District Election Officers.