



W.P.(MD).No.19514 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 17.07.2025

ORDER PRONOUNCED ON : 22.07.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.19514 of 2022
and WMP(MD).No.14246 of 2022**

The Management
SP-SPL-89 Nerthiyairuppu Primary
Agricultural Co-operative Credit Society
Rep.through its President
Pulvaikarai 630 611
Tiruppuvanam Via, Thiruchuli Taluk
Virudhunagar District

....Petitioner

Vs

1.The Appellate Authority
Under the Tamil Nadu Shops and Establishments Act
(The Joint Commissioner of Labour)
Barathi Ulla Salai (Near race course colony)
Near Thamarai Thotti
Madurai 625 002

2.J.Ramesh

....Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order passed in TNSE No.08/2019 dated 31.03.2022, quash the same.



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For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader for R1
:Mr.K.Navaneetharaja for R2

ORDER

The present writ petition has been filed by the management challenging the order passed by the appellate authority under Tamil Nadu Shops and Establishments Act wherein the appellate authority had set aside the order of dismissal.

2.The second respondent herein was employed as a Secretary of Nerthiyairuppu Primary Agricultural Society. He was issued with a charge memo alleging that he was having custody of the jewel locker keys of Karisalkulam Primary Agricultural Co-opertative Credit Society and during his tenure, 21 jewel bags went missing. Pursuant to a domestic enquiry, the second respondent was dismissed from service. Challenging the same, the second respondent has preferred an appeal before the first respondent under Tamil Nadu Shops and Establishments Act.

3.The first respondent herein after considering the oral and documentary evidence, has arrived at a finding that the management has failed to establish that the jewels having been found in Nalur Primary Agricultural Co-operative Credit Society, the allegation of misappropriation



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or shortage has not been proved by the management. Challenging the same,

the present writ petition has been filed.

4. According to the learned counsel appearing for the management, the second respondent, who was the Secretary of Nerthiyairuppu Society was given the custody of jewel locker key of Karisalkulam Society. During his tenure, 21 jewel bags are said to have been removed and handed over Nalur Society to adjust the auditing that was going on in their Society.

5. The delinquent has submitted an explanation admitting his delinquency. The charges as against the second respondent are serious in nature. In such circumstances, the appellate authority ought to have confirmed the order of dismissal.

6. Per contra, the learned counsel appearing for the second respondent had submitted that the management has not established the duties and responsibilities of the delinquent while he is placed in-charge of Karisalkum Society. The management was also not able to prove why the key was handed over to him. In fact, even before the date of inspection, he had handed over the key to the Secretary of Karisalkulam Society. He further submitted that, when no complaint had emanated from Karisalkulam Society, his parent society cannot issue a charge memo and proceeded with the domestic enquiry. He had further contended that there is no reference about initiating action as against the other employees of Karisalkulam Society in his charge memo.



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Therefore, it is highly discriminatory. When some misconduct has happened, after he had handed over the keys to the Secretary of Karisalkulam Society, he cannot be held responsible.

7.The learned counsel for the petitioner relied upon a judgment of this Court reported in *1989 (2) LW 330 (P.Karupiah Vs. The Deputy Registrar of Co-operative Societies, Periyakulam & another)* to contend that when duties and obligations have not been specifically defined and delineated, one cannot be laid down the culpability of breach thereof on the person concerned. Hence, he prayed for confirming the order of the appellate authority and to dismiss the writ petition.

8.Heard both sides and perused the material records.

9.The second respondent herein was issued with a charge memo alleging seven charges as against him. The primary charge as against the second respondent herein is that when he was in joint custody of jewel locker key of Karisalkulam Society from 25.04.2013 onwards, 21 jewel bags worth Rs.19,10,500/- have been moved to Nalur Society in order to show that there are jewels bags in Nalur Society during auditing. It was further alleged that due to certain allegations in Nalur Society, the lockers have been sealed and therefore, the jewels could not be returned to the customers.

10.It is the defence of the second respondent that no duties and responsibilities have been defined and therefore, he cannot be held



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responsible for missing of any jewels from the jewel locker of Karisalkulam Society. A perusal of explanation submitted by the second respondent would clearly reveal that the delinquent had stated that he may be responsible only for the missing of nine jewel bags and he cannot be held responsible for all 21 jewel bags. In the explanation, he had further stated that moving of jewels from Karisalkulam Municipality to Nalur Municipality is a misconduct. However, it was done by the Secretary of Karisalkulam Society and not by him.

11.The delinquent has not disputed the fact that he was handed over the custody of jewel locker key of Karisalkulam Society. He had not pointed out any specific date on which he had handed over the keys to the Secretary of Karisalkulam Society. When the jewel locker keys are handed over to him, it is obvious that he is expected to protect the jewels. It does not require an express order defining his duties and responsibilities so as to protect the jewels.

12.The delinquent has clearly admitted in his explanation that he may be responsible for seven jewel loans and he is not responsible for all 21 jewel loans and missing of jewel bags. In such circumstances, it is clear that the jewel bags from Karisalkulam Society have been moved to Nalur Society in order to show that the jewels are available at Nalur Society during audit.



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13.It is a case of grievous misconduct. However, the appellate authority without properly considering the explanation offered by the delinquent, has proceeded to hold that the management has failed to prove the loss of jewels. Therefore, the said finding is perverse in nature and liable to be rejected.

14.In view of the above said deliberations, the order of the first respondent is hereby set aside and the order of dismissal imposed by the management on 01.10.2019 is hereby restored. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2025.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No

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To

1.The Appellate Authority
Under the Tamil Nadu Shops and Establishments Act
(The Joint Commissioner of Labour)
Barathi Ulla Salai (Near race course colony)
Near Thamarai Thotti
Madurai 625 002

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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