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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 1853 of 2026

and

C.M.P.No.16694 of 2026

The Administrator
S.777, Nangavalli Primary Agricultural
Cooperative Credit Society,
Nangavalli Post, Mettur Taluk,
Salem District.

..Appellant(s)

Vs

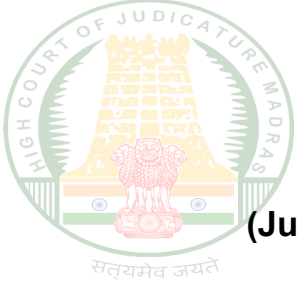
1. P.Thangavel
S/o.Palaniappan,
East Radhaveethi,
Nangavalli , Nangavalli Post,
Mettur Taluk, Salem District.
2. The Joint Registrar Of Cooperative Societies
Salem Region, Salem, Salem Dt.
3. The Competent Authority For
Subsistence Allowance (I/C),
Joint Commissioner of Labour,
Korimedu, Salem,
Salem District.

..Respondent(s)

Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal and set aside the Order passed in WP.No.6284 of 2022 dated 08.12.2025

For Appellant(s): Mr.R.Ramesh

For Respondent(s): Mr.C.Prakasam for R1



JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

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The present intra-Court Appeal has been instituted challenging the writ order dated 08.12.2025 passed in W.P.No.6284 of 2022.

2. The 3rd respondent Co-operative Society is the appellant before this Court. The 1st respondent/ writ petitioner filed a Writ of Mandamus seeking a direction to disburse subsistence allowance to the tune of Rs.17,51,266/- to the writ petitioner together with interest by implementing the order passed by the competent authority under the Subsistence Allowance Act in PSA.02/2021 dated 14.12.2021.

3. Heard the learned counsel appearing for the parties.

4. The preliminary objection raised by the appellant is regarding the maintainability of an application before the competent authority for subsistence allowance, Joint Commissioner of Labour under the provisions of Tamil Nadu Payment of Subsistence Allowances Act, 1981. Secondly, disciplinary proceedings as well as surcharge proceedings under the provisions of the Tamil Nadu Co-operative Societies Act was initiated against the 1st respondent. Therefore, the 1st respondent has to exhaust the alternate remedy contemplated under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. In view of the above issue regarding jurisdiction and



exhausting alternate remedy, the writ petition is not maintainable. Thus, the writ order is perverse.

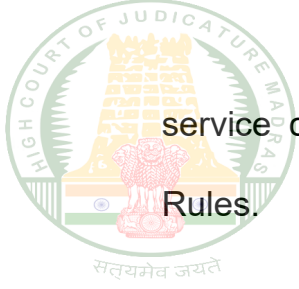
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5. Mr.C.Prakasam, learned counsel appearing on behalf of the 1st respondent would submit that subsistence allowance is the basic right of an employee under suspension. Special bye-laws provides payment of subsistence allowance to an employee under suspension. Therefore, the 1st respondent approached the competent authority, Joint Commissioner of Labour under the Tamil Nadu Payment of Subsistence Allowance Act,1981, for settlement of subsistence allowance during the period of suspension. Thus, there is no infirmity and the Writ Appeal is to be rejected.

6. This Court has considered the rival submissions made between the parties to the lis.

7. Let us examine the jurisdictional ground raised on behalf of the appellant in the present Appeal.

Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988, stipulates conditions of service of paid officers and servants of Co-operative Societies. Sub Rule (1) states that “Every Society shall taking into account its nature of business, volume of transaction and financial position, adopt in the prior approval of the Registrar, a Special bye-law governing the service conditions of its employee”. The special bye-law shall inter alia prescribe the



service conditions as stated under Rule 149 of the Co-operative Societies Rules.

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8. The appellant Co-operative Society is registered under the Tamil Nadu Co-operative Societies Act. Therefore, the Special Act will prevail over the general law. In the present case, Co-operative Societies Act is a Special Act and Subsistence Allowance Act is a general law.

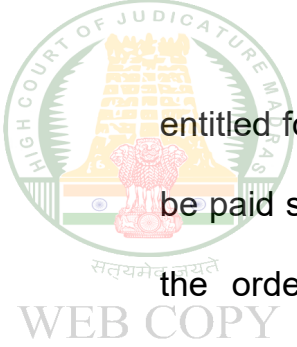
9. Special bye-laws are approved by the Registrar for the appellant Society in accordance with the provisions under Clause IV of Sub Section (2) of section 136-D of the Tamil Nadu Co-operative Societies (Third Permanent) Act, 2008 and under Rule 6(1)(mm) and Rule 149(1) of the Tamil Nadu Co-operative Societies Rules, 1988. Clause 31 of the Special Bye-laws speaks about suspension. Sub-Clause (2) of Section 31 states that the authority competent to suspend an employee may grant to the employee suspended, subsistence allowance in accordance with the provisions of the Tamil Nadu Payment of Subsistence Allowance Act, 1981. Therefore, the quantum of subsistence allowance to be determined must be under the provisions of Tamil Nadu Payment of Subsistence Allowance Act. However, the power to grant subsistence allowance is conferred under the special bye-laws which is approved by the Registrar of Co-operative Societies. Therefore, an aggrieved employee to seek payment of Subsistence Allowance has to approach the disciplinary authority i.e., Board or Special Officer of the Society and if his



request is not acceded to, then has to approach the revisional authority under Section 153 of the Tamil Nadu Co-operative Societies Act. Section 154 provides review. Therefore, an aggrieved employee has to exhaust the remedies contemplated under the Cooperative Societies Act. However, subsistence allowance cannot be claimed before the authority under Payment of Subsistence Allowance Act, who has no jurisdiction to entertain the application in view of the special law governing the Co-operative Societies registered under the provisions of the Tamil Nadu Co-operative Societies Act.

10. Similarly, Sections 78 and 79 of the Tamil Nadu Co-operative Societies Act states about Provident Fund and Gratuity Fund. Accordingly, a registered Society is not an establishment to which the Employees Provident Fund and Miscellaneous Provisions Act applies and also Payment of Gratuity Act, 1972. The two general Acts are inapplicable to the Co-operative Societies if the Payment of Provident Fund and Gratuity are governed under the special bye-laws as approved by the Registrar of Co-operative Societies. Thus, in the event of existence of schemes for Provident Fund and Gratuity to the employees of Co-operative Societies, no application before the competent authority under either of the Acts is maintainable and an aggrieved employee has to exhaust the remedy contemplated under the Tamil Nadu Co-operative Societies Act.

11. It is needless to state that an employee placed under suspension is



entitled for Subsistence Allowance. However, the Subsistence Allowance is to be paid subject to the terms and conditions stipulated under the bye-laws and the orders passed by the Registrar. Even for payment of Subsistence Allowance, an employee has to produce necessary certificate to the employer in compliance of the procedures as contemplated. On production of all requisite documents and complying with the procedures, the authority competent is bound to pay the subsistence allowance.

12. In the present case, the learned counsel for the appellant would submit that the 1st respondent has involved in an allegation of misappropriation of the funds of the Society to the tune of more than Rs.1 Crore. Therefore, multiple actions are initiated under the Co-operative Societies Act.

13. In this regard, the Co-operative Societies Act contemplates three fold actions against the employee. If an allegation of misappropriation of funds or any other illegalities are noticed and actions are initiated, then the competent authority is empowered to register a police complaint before the Commercial Crime Investigation Wing of the Police Department. Secondly, departmental disciplinary proceedings may be initiated under the Discipline and Appeal Rules. Thirdly, surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act may be initiated to recover the financial loss occurred to the Co-operative Society. All the above actions can



be initiated simultaneously by the respective competent authorities against an employee involved in such financial and other irregularities in Co-operative Societies. In order to protect the financial interest of the Co-operative Societies, Section 167 of the Act contemplates furnishing of security and attachment of property .Therefore, the competent authority is empowered to attach the property during the pendency of the disciplinary proceedings, surcharge proceedings etc. by invoking the provisions under the Tamil Nadu Co-operative Societies Act. This being the scope of the Act, 1983, the authorities are well within their powers to proceed against the 1st respondent by conducting an enquiry and by following the procedures as contemplated and by affording opportunity to the 1st respondent and other persons involved in the financial irregularities or illegalities etc.

14. In the present case, the learned counsel for the appellant relied on the judgement of the Division Bench of this Court in the case of **Registrar of Co-operative Societies vs. V.M.Elango reported in 2021 (1) CTC 465¹**, wherein it is held as follows:

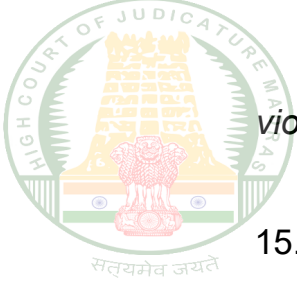
32. The underlying principle for making payment of Subsistence Allowance is to allow an individual to sustain himself. In the present context of the suspension of an Employee, one has to keep in mind that services of an Employee have not been snapped and the Employer-Employee relationship during Suspension continues to subsist. There is a possibility of the Employee being

¹ 2021 (1) CTC 465



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exonerated and he may in such circumstances be entitled to his entire emoluments of the said period. On the other hand, an Employee can be found partially guilty and the Employer may choose to deduct part of the emoluments by imposing a condition that the Employee would not be entitled to any further emoluments, apart from what he has received during his period of Suspension. It is, therefore, the discretion of the Employer according to the By-laws and Rules applicable, but at the same time, it is the right of sustenance of an Employee to receive Subsistence Allowance. As to what would be the ratio to which an employee may be entitled in the present context will have to be left to the discretion of the employer, as By-law 31(2) indicates that the Employer may pay Subsistence Allowance as he may deem fit. This discretion, however, should be exercised reasonably and may be subject to any such deductions in the event an Employee is found to be ultimately guilty of heavy financial irregularities or misappropriations. On this ground, we therefore find favour with the Respondent/Writ Petitioner that his representation for payment of Subsistence Allowance also deserves consideration in the background aforesaid. A total denial of Subsistence Allowance to a suspended Employee, in our opinion, would be violative of Article 21 of the Constitution of India, unless it can be shown that payment of Subsistence Allowance is not warranted on the facts of a particular case, as illustrated above. We are conscious that a possible sense of injustice or inconvenience resulting in a temporary hardship by itself cannot be a ground to claim a right bereft of the statutory provisions, but where the very sustenance is a single salaried source, a total denial thereof may result in an abrupt punishment with hardly any justification thereby



violating basis Fundamental Rights.

15. In view of the facts and circumstances, this Court is of the considered view that an application filed by the 1st respondent before the competent authority for subsistence allowance/ Joint Commissioner of Labour, under the provisions of Payment of Subsistence Act, is not maintainable. However, the 1st respondent is at liberty to submit an application claiming subsistence allowance before the Management of the Co-operative Society and thereafter, if aggrieved, may approach the revisional authority under Section 153 of Tamil Nadu Cooperative Societies Act, for redressal of his grievances. In the event of filing any such application, the same may be considered on merits and in accordance with law.

16. In view of the discussions made in the aforementioned paragraphs, the writ order impugned dated 08.12.2025 passed in W.P.No.6284 of 2022 is set aside and the writ appeal stands allowed. No costs. Consequently connected miscellaneous petition is closed.

(S.M.S.,J.) (N.S.,J.)
10-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

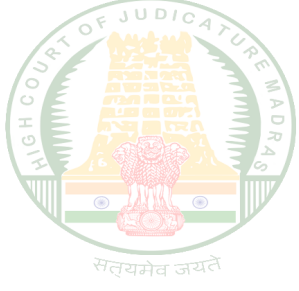
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**S.M.SUBRAMANIAM, J.
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