

In the High Court of Judicature at Madras

Dated: 08.09.2015

Coram

The Honourable Mr.JUSTICE M.SATHYANARAYANAN

Writ Petition No.28127 of 2015

K.Gopal

.... Petitioner

Vs

The President,
H.H.509, Arpakkam Primary
Agriculture Co.operative Society,
Arpakkam, Thiruvannamalai. Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the respondent to consider the petitioner's representation dated 22.05.2015 to re-instate the petitioner in the post of Secretary in H.H.509 Arpakkam Primary Agriculture Cooperative Society, Arpakkam, Thiruvannamalai, Thiruvannamalai District.

For Petitioner : Mr.E.Kannadasan

For Respondents: Mr.V.Subbiah, Spl.G.P.

O R D E R

By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner, while working as the Secretary of the respondent-Society was involved in the commission of offence under Sections 408, 409 and 477(A) of the Indian Penal Code in Cr.No.6 of 2005, registered by C.C.I.W.C.I.D, Thiruvannamalai. The case, after investigation, has culminated into filing of charge sheet, which was taken on file in C.C.No.194 of 2007 on the file of Judicial Magistrate No.II, Vellore. The Trial Court, after full fledged trial, has convicted the petitioner for the commission of the said offence and imposed a sentence of 6 months RI and fine of Rs.500/- each, in default, to undergo simple imprisonment of one month. The petitioner, aggrieved by the said conviction and sentence awarded by the Trial Court, filed an appeal in CrI.A.No.162 of 2010 on the file of the First Additional District and Sessions Judge, Vellore. The lower Appellate Court, vide judgment dated 22.9.2014, has confirmed the conviction and sentence awarded by the Trial Court. The petitioner, challenging the legality of the sentence passed by the

lower Appellate Court, filed a revision before this Court in CrI.R.C.No.1271 of 2014, wherein this Court by order dated 23.5.2015, has modified the sentence and it is relevant to extract the same, as follows:

"6. Having regard to the contention of the counsel for the petitioner that the petitioner lost his employment, paid the entire amount to the bank, suffered incarceration for more than 25 days, presently aged 57 years and suffering from age old ailment, I am inclined to reduce the sentence imposed on him. Having regard to the above, I hold that the sentence imposed on the petitioner by the courts below to undergo six months rigorous imprisonment under two counts can be reduced in to one of the period already undergone by him. However, having regard to the facts and circumstances of the case, I am inclined to enhance the fine amount imposed by the courts below from Rs.500/- for each count, totalling Rs.1,000/- to Rs.5,000/- under each count totalling Rs.10,000/-. As it is represented that the petitioner had paid the fine amount of Rs.1,000/-, he is directed to remit the remaining sum of Rs.9,000/- before the trial court and such sum shall be withdrawn by the defacto complainant/bank. The petitioner is directed to pay the sum of Rs.9,000/- within a period of two months from the date of receipt of a copy of this order. In case, the petitioner fails to pay the amount as ordered, the benefit of this order will not enure to him and consequently the orders passed by both the courts below shall stand automatically restored. In such event, the trial court shall take appropriate steps as are necessary to secure the presence of the petitioner to undergo the remaining period of sentence.

7. In the result, the Criminal Revision Case is partly allowed."

3. The petitioner has complied with the orders passed by this Court in the above revision and thereafter submitted a representation dated 22.5.2015 praying for his reinstatement in the service on account of his family circumstance and also poor economic background and since no orders have been passed, he came forward to file this Writ Petition.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondent.

5. Though the petitioner has prayed for a large relief, this Court in the light of the above-said facts and circumstances, without going into the merits of the claim of the petitioner, directs the

respondent to consider and pass orders on the representation of the petitioner dated 22.5.2015 on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

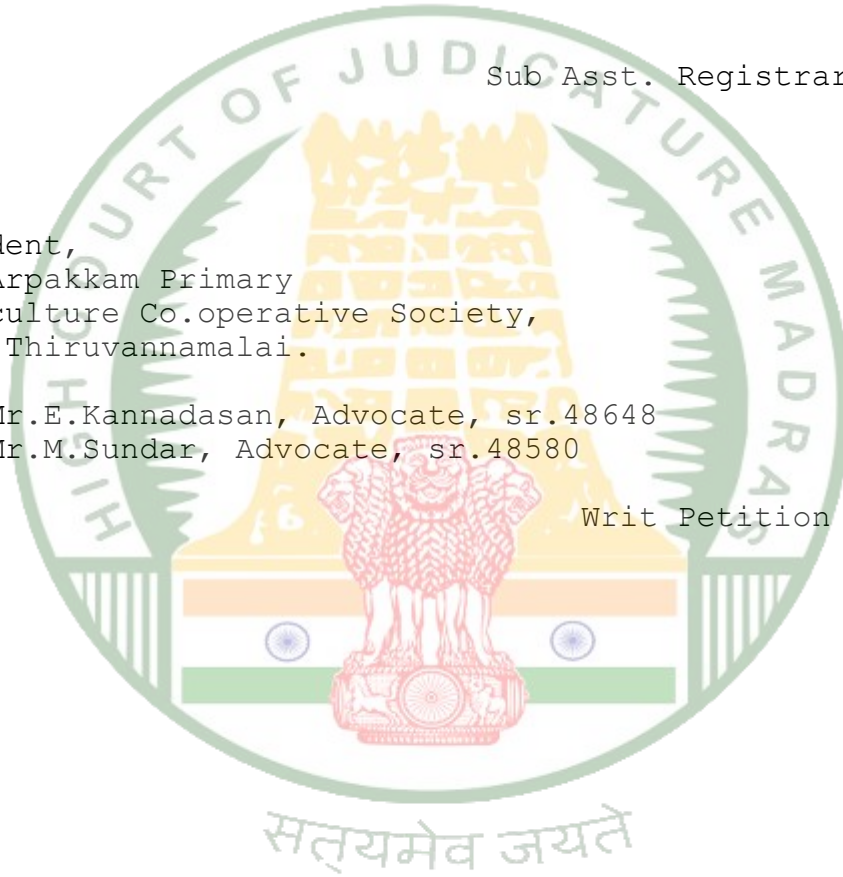
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To

The President,
H.H.509, Arpakkam Primary
Agriculture Co.operative Society,
Arpakkam, Thiruvannamalai.

+1 cc to Mr.E.Kannadasan, Advocate, sr.48648
+1 cc to Mr.M.Sundar, Advocate, sr.48580

vsn co
kra 22/09

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