

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31574 of 2015

And

M.P.Nos.1 and 2 of 2015

S.Vanitha

... Petitioner

Vs.

- 1 The Registrar Cooperative
(Housing Societies) Tamil Nadu Housing
Board Complex No.493 Anna Salai,
Nandanam, Chennai - 600 035
- 2 The Deputy Registrar
Regional Cooperative Housing Societies
No.15, 1st West Main Road,
Gandhi Nagar, Vellore District
- 3 The President
Hosur Cooperative House Building Society
No.S-945, Appavoo Nagar-Thally Road, Hosur
- 4 Enquiry Officer
Domestic Enquiry, Hosur Cooperative House
Building Society, No.S-945
Appavoo Nagar-Thally Road, Hosur

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3rd and 1st respondent to consider petitioners complaint dated 31.07.2015 and 25.08.2015 respectively.

For Petitioner : Mr.R.Ramesh

For Respondent : Mr.R.Bala Ramesh
Additional Government Pleader
(Co-op)

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner while working as Secretary - in - Charge in the services of Hosur Cooperative House Building Society, was suspended from service on 04.11.2013 alleging certain irregularities and initially it was put to challenge by the petitioner in W.P.No.31715 of 2013 and interim order was granted and subsequently, writ petition was dismissed and the petitioner was issued with a notice on 31.08.2015 by the fourth respondent informing that departmental enquiry would be conducted against her.

3. The grievance expressed by the petitioner is that she is kept under prolonged suspension and neither her salary nor her subsistence allowance have been paid and the documents for effective defence of the departmental proceedings have also not been furnished and she has also pointed out certain irregularities on the part of the former Secretary, Accountant as well as President of the Society and in this regard, also submitted a detailed representation dated 25.08.2015 to the first respondent and since her grievance have not been addressed, came forward to file this writ petition.

4. The learned counsel appearing for the petitioner would submit that the petitioner is neither paid with the salary nor the subsistence allowance and consequently, she and her family are suffering very much and by the acts of the other official respondents, she is also prevented from defending the departmental proceedings in a fair and effective manner and hence, prays for appropriate orders.

5. Per contra, Mr.R.Bala Ramesh, learned Additional Government Pleader(Co-operatives) who accepts notice on behalf of the respondents would submit that the petitioner being the Secretary - in - Charge as a matter of right cannot claim subsistence allowance and prays for dismissal of the writ petition.

6. This Court considered the rival submissions and also perused the materials placed before it.

7. Admittedly, the petitioner has been placed under suspension and she cannot survive, either without the salary or the subsistence allowance.

8. Therefore, this Court is of the view that the third respondent is bound to pay the petitioner, the subsistence allowance due and payable along with arrears. The second respondent has also sent a communication dated 25.08.2015 to the third respondent to pay the subsistence allowance failing which, the entire responsibility have to be taken by them.

9. In the light of the above facts and circumstances, this Court directs the first respondent to consider and dispose of the petitioner's representation dated 25.08.2015 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and the third respondent is also directed to consider the claim of the petitioner for payment of subsistence allowance with arrears in the light of the communication sent by the second respondent dated 25.08.2015 in Na.Ka.1428/ 2015 E and pass orders within the time stipulated as stated above and till then, the respondents 3 and 4 shall defer the departmental proceedings. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are also closed.

Pri

Sd/-
Assistant Registrar (Admn.,I)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Registrar Cooperative
(Housing Societies) Tamil Nadu Housing
Board Complex No.493 Anna Salai Nandanam
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Hosur

सत्यमेव जयते
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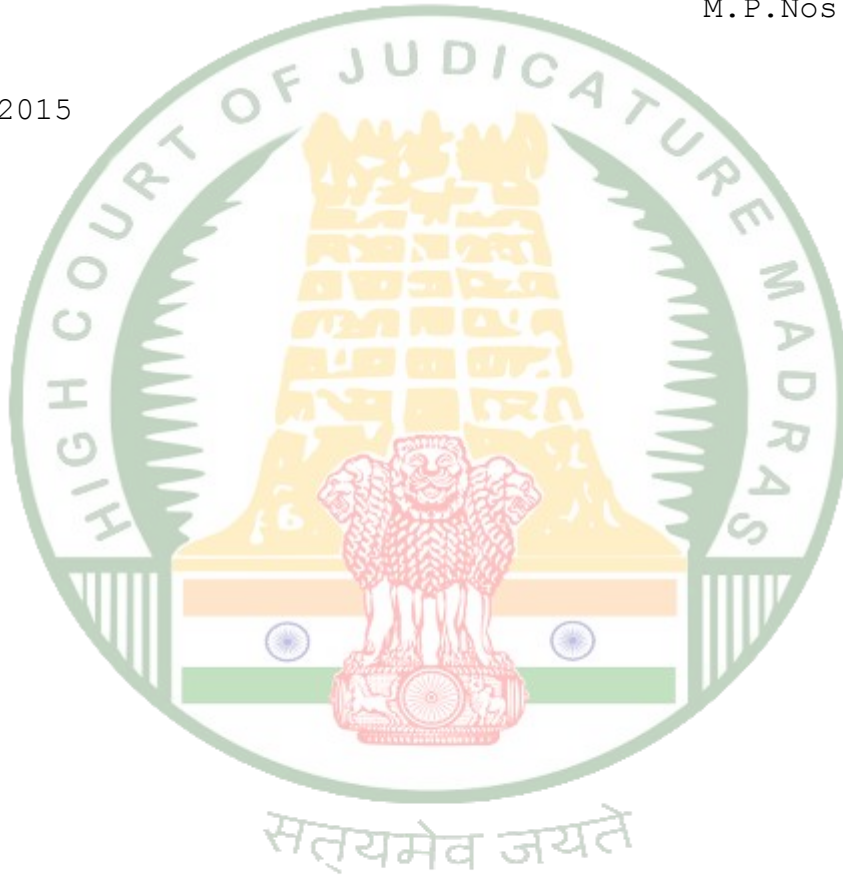
4 Enquiry Officer
Domestic Enquiry, Hosur Cooperative House
Building Society No.S-945,
Appavoo Nagar-Thally Road, Hosur

+1 C.C. To MR.R.Ramesh, Advocate in SR.NO.54854

+1 C.C. To Government Pleader in SR.NO.54735

W.P.No.31574 of 2015
And
M.P.Nos.1 and 2 of 2015

CA (CO)
sd : 26/10/2015



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