

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN, J

Writ Petition No.32179 of 2015 and
M.P.No.1 of 2015

The Pondicherry Toy Makers
Service Industrial Co-operative
Society Ltd., P- 427
Represented by its Secretary
Mr.G.Manjunath
No.40 D, Eswaran Koil Street,
Puducherry - 605 001.

.. Petitioner

vs.

1.The Registrar of Co-operative
Society,
Co-operative Department,
Govt., of Puducherry,
Puducherry.

2.The Deputy Registrar (Consumers),
Co-operative Department,
Govt., of Puducherry,
Puducherry.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the respondents from sending any membership applications to the petitioner society for admission of new membership in the petitioner society.

For Petitioner : Mr.M.Gnanasekar
For RR1 & 2 : Mr.R.Sridhar,
Government Advocate (Puducherry)

ORDER

The petitioner is a society formed for the benefit of Toy Makers. The members of the petitioner society used to make toys and the petitioner society is selling the same. The membership of the petitioner society is only restricted because, now a days, toys are not moving fast in the market, in view of the changed circumstances and changing interest of the people.

2.It is submitted by the learned counsel for the petitioner that it is very difficult for the petitioner society even to sell the products of the members. However, the respondents have sent a batch of applications received by them to the petitioner society to include them as members of the petitioner society. Since the applications are forwarded by the second respondent, the superior authority, the petitioner apprehends that there would be compulsion on that part of the second respondent to take the applicants therein as members. Therefore, the petitioner has come before this court with this writ petition seeking a writ of mandamus to forbear the respondents from sending any membership applications to the petitioner society for admission of new membership in the petitioner society.

3.Heard the learned counsel for the petitioner and the learned Government Advocate (Puducherry) appearing for the respondents.

4.It has been categorically stated that the Toy Industry is not doing very well, in view of the changed circumstances and this Court also can take note of it judicially. When the petitioner contends that even the toys produced by the existing members of the society cannot be sold and it is only a seasonal, no purpose will be achieved by taking more members in the society. The apprehension of the petitioner that if the new applications are forwarded by the second respondent, it would carry weight and the same cannot be ignored by the petitioner. Since the petitioner is the subordinate of the second respondent, the petitioner is bound to obey the command of the second respondent, even if it is not supported by any of the rules and regulations.

5.Though, the learned Government Advocate (Puducherry) would submit that there is no provision to present the applications to the second respondent and the second respondent in turn to forward the same to the petitioner, the second respondent sent the applications to the petitioner as it is and no specific direction was given to the petitioner to take the applicants therein as members of the society.

6.Though it is contended by the learned Government Advocate (Puducherry) that so far, the second respondent has not given any such instruction to the petitioner to include the applicants therein as members of the society, as observed above, the second respondent is the superior authority of the petitioner and the very fact of the forwarding applications by the second respondent would carry weight. It will create a lot of problems in the day to day administration of the petitioner society, in any case, the petitioner did not admit any new applicant as member of the society. There is no necessity for the respondents to forward any new applications to the petitioner hereinafter.

7. Even the applications have already been sent by the second respondent to the petitioner, there is no compulsion on the part of the petitioner to take them as members of the society. The applications received by the petitioner would be decided by the petitioner as per the existing law.

8. With the above observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

jbm

s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Registrar of Co-operative
Society,
Co-operative Department,
Govt., of Puducherry,
Puducherry.

2. The Deputy Registrar (Consumers),
Co-operative Department,
Govt., of Puducherry,
Puducherry.

+ 1 cc to Mr. M. Gnanasekar, Advocate SR 56577

+ 1 cc to Govt. Pleader cum Public Prosecutor for Pondicherry
SR.No.56316

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W.P.No.32179 of 2015

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