

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Cont.P.No.813 of 2016

Ms.K.Parimala

.. Petitioner

Vs.

E.Duraisamy,
President,
VL.213-Sathambakkam Primary Agricultural
Cooperative Credit Society Limited,
Sathampakkam Village,
Vellore-632 513.

.. Respondent

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act for noncompliance of the order dated 30.9.2015 passed in W.P.No.30776/2015.

For Petitioner : M/s.R.Ramesh

For Respondent : Mr.P.Damodaran

O R D E R

The petitioner has filed W.P.No.30776 of 2015 praying for a Writ of Mandamus directing the first respondent to take action against the second respondent under Section 155 of the Tamil Nadu Co-operative Societies Act, 1983 and implement the order dated 30.03.2015 passed by the Revisional Authority/first respondent and this Court, vide order dated 30.09.2015 has directed the second respondent to comply with the order of the first respondent and pass orders within a stipulated time

frame. Alleging non-compliance of the said order, the petitioner has filed this Contempt Petition.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the order of the first respondent dated 30.03.2015 and would submit that the Revisional Authority directed the respondent/contemnor to give promotion to the petitioner to the post of Clerk and despite positive orders passed by the first respondent and by this Court, the respondent/contemnor did not choose to obey the orders and therefore, the petitioner has been constrained to file this contempt petition.

3. The learned counsel appearing for the respondent has drawn the attention of this Court to the counter affidavit as well as the typed set of documents and would submit that as per the qualification prescribed for the post of Clerk, a pass in H.S.C. or its equivalent with declaration of eligibility for college course is mandated and admittedly, the petitioner has passed S.S.L.C. and failed in H.S.C. and therefore, she is not entitled to be considered for the post of Clerk and prays for dismissal of this contempt petition.

4. This Court has considered the rival submissions and perused the materials placed before it.

5. It is relevant to extract Bye-Law 4 of the Special Bye-Laws of the Cooperative Society:

4. QUALIFICATION FOR APPOINTMENT TO VARIOUS CATEGORIES OF POSTS:

4.(1) No Person shall be eligible for appointment whether by direct recruitment or by promotion or by transfer of service to any category of posts in column (2) of the Table below unless he/she possesses the qualifications Specified in the corresponding entries in column (3) and (4) thereof.

S.No	Category of Posts	Educational Qualifications	Other Qualifications
1	...	...	...
2	..	..	...
3	Clerk Attender Peon/ Watchman	A pass in the HSC or its equivalent with declaration of eligibility for college course	(i) A Certificate or Diploma in Cooperative Training (ii) Nil
4	..	..	..
5	..	..	..

Provided that in the case of the existing employees who are regularly appointed and are in the services of the society as on the date of registration of these special bylaws, the educational qualifications prescribed in column (3) of this clause shall not apply for their continuance in the similar posts mentioned in the table or for their promotion to higher category of posts subsequently, provided they possess the minimum General Educational Qualification namely SSLC pass with the eligibility for admission to university under the old regulations (Eleven years course) or completion of the first year of Higher Secondary Course (11 years) or for appointment under the Tamil Nadu State Service.

existing employees of the Society, minimum general qualification, namely SSLC pass with the eligibility for admission to university under the old regulations **(Eleven Year course) or completion of the first year of Higher Secondary Course (11 years) or for appointment under the Tamil Nadu State Service.** Admittedly, the petitioner has studies upto 10th Standard and completed the first year Higher Secondary Course and in the Higher Secondary Examinations, she failed in four subjects. In the considered opinion of the Court, the petitioner fulfills the second limb of the qualification prescribed.

6. It is the vehement submission of the learned counsel appearing for the petitioner that the qualification prescribed prevail over the proviso and therefore, the petitioner has to pass Higher Secondary Course. In the considered opinion of the Court, the said submission lacks merit for the reason that as per the second limb of the proviso, the petitioner is qualified to hold the post of Clerk. At this juncture, the learned counsel appearing for the respondent/contemnor prays for four weeks time to comply with the order.

7. In the result this Contempt Petition is disposed of granting time to the respondent to comply with the order of

this Court dated 30.09.2015 till 14.07.2016.

Call on 14.07.2016 "For Reporting Compliance".

jvm

SD/
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing
certified copies of the Orders/Judgments/Decrees in this
format.

To
E.Duraisamy,
President,
VL.213-Sathambakkam Primary Agricultural Cooperative Credit
Society Limited,
Sathampakkam Village,
Vellore-632 513.

CO/27/06/2016

One CC to M/s.R.Ramesh, Counsel for Petitioner, SR.6740/2016

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