

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.06.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.Nos.16922 and 17370 of 2016
and
W.M.P.Nos.14497 and 14842 of 2016

N.M.Periyasamy ... Petitioner in
W.P.No.16922/2016
G.Sivaraj ... Petitioner in
W.P.No.17370/2016

vs

1. The Joint Registrar of Co-operative, Societies, Dharmapuri.
2. The Deputy Registrar of Co-operative, Societies, Dharmapuri.
3. Co-operative Sub Registrar/Enquiry Officer, S.993, Paisualli Primary Agricultural, Co-operative Credit Society, Paisualli Post, Dharmapuri Taluk & District.
4. The President, S.993, Paisualli Primary Agricultural, Co-operative Credit Society, Paisualli Post, Dharmapuri Taluk & District.

.. Respondents in both W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in Na.Ka.Nos.03 and 04/2015 dated 01.08.2015 on the file of the fourth respondent; to quash the same and to consequently direct the respondents to reinstate the petitioners in service with all consequential benefits, continuity of service.

For Petitioner : Mr.J.Bharathiraja
in both W.Ps.

For Respondents: Mr.L.P.Shanmuga Sundaram
in both W.Ps. Additional Government Pleader

COMMON ORDER

The prayer in these writ petitions is for the issuance of a writ of certiorarified mandamus to call for the records in Na.Ka.Nos.03 and 04/2015 respectively dated 01.08.2015 on the file of the fourth respondent; to quash the same and to consequently direct the respondents to reinstate the petitioners in service with all consequential benefits, continuity of service.

2. The petitioners, who were working as Fertilizer salesman-cum-Clerk and Clerk respectively in the fourth respondent-Co-operative Society were suspended from service in connection with misappropriation of the society funds. According to the petitioners, they were in no way connected with the said misappropriation and the Enquiry Officer who had conducted the enquiry has also stated in his enquiry report that there is no material evidencing misappropriation is available against the petitioners. It is their further contention that though the Enquiry Officer has concluded the enquiry proceedings, the fourth respondent without reinstating them into service have extended their period of suspension for a further period of three months. Hence, the present writ petitions.

3. Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader, who took notice on behalf of the respondents.

4. When the matter is taken up today, Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents brought to the notice of this Court that after enquiry proceedings are concluded, the Enquiry Officer has submitted a report recommending further disciplinary proceedings as against the petitioners vide his report dated 30.03.2016. In such circumstances, the writ petitions are pre-mature in nature.

5. Learned counsel for the petitioners would submit that the respondents have not even paid the subsistence allowance to the petitioners during their period under suspension.

6. Considering the submissions made on either side, this Court is of the view that the writ petitions, at this stage, are not maintainable. However, insofar as the contention of the

petitioners regarding extension of their suspension, they can very well seek remedy under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 before the Joint Commissioner. Since it is submitted that the subsistence allowances were not paid, it is made clear that the respondents are directed to pay the eligible subsistence allowance to the petitioners, if not already paid, along with the arrears, if any, within a period of one week from the date of receipt of a copy of this order.

7. With the above observation, both these writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Registrar of Co-operative, Societies, Dharmapuri.
2. The Deputy Registrar of Co-operative, Societies, Dharmapuri.
3. Co-operative Sub Registrar/Enquiry Officer, S.993, Paisualli Primary Agricultural, Co-operative Credit Society, Paisualli Post, Dharmapuri Taluk & District.
4. The President, S.993, Paisualli Primary Agricultural, Co-operative Credit Society, Paisualli Post, Dharmapuri Taluk & District.

+1cc to the Government pleader sr.29838
+2cc to M/S.L.P.Shanmugasundaram, Advocate Sr.29680, 29679
+1cc to M/S.J.Bharathiraja, Advocate sr.29575
+1cc to M/S.K.Parameshwari, Advocate Sr.29572

W.P.Nos.16922 and 17370 of 2016

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srg 20/06/2016