

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.No.26168 of 2016
WMP.Nos.22434 and 22435 of 2016

P.S.Ekambaram
Petitioner

Vs

- 1.The Management of Triplicane Urban Cooperative Society Limited by its Managing Director, Chennai-5
- 2.M.Sambamurthy, retired Cooperative Sub Registrar/ Enquiry Officer, Triplicane Urban Cooperative Society Limited, Chennai-5
Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order dated 16.7.2016 in Na.Ka.No.1234/14/E2 and the order dated 19.7.2016 in Na.Ka.No.826/16/E4 issued by the 1st Respondent and to quash the same and consequently direct the 1st Respondent to appoint a new Enquiry Officer and to hold the enquiry afresh, after furnishing the Petitioner the documents and after giving him opportunity to cross examine the management witnesses and to file documents and examine the witnesses on his side and to furnish him the minutes of enquiry and to regularize the period from 1.4.2016 to 21.7.2016 as medical leave with pay.

For Petitioner सत्यमेव जयते Mr.V.Ajoy Khose

For Respondents : Mr.L.P.Shanmugasundaram

ORDER

This Writ Petition is filed against the orders dated 16.7.2016 and 19.7.2016 of the 1st Respondent and to direct the 1st Respondent to appoint a new Enquiry Officer and to hold the enquiry afresh, after furnishing the Petitioner the documents and after giving him opportunity to cross examine the management witnesses and to file documents and examine the witnesses on his side and to furnish him the minutes of enquiry and to regularize the period from 1.4.2016 to 21.7.2016 as medical leave with pay.

side and also perused the materials placed on record.

3. The apprehension of the Petitioner is that the impugned order is only a show cause notice and pursuant to the same, if any order is passed thereon, then the Petitioner has to challenge the same before the revisional authority and in his case, the 1st Respondent, who is the revisional authority, himself has issued the impugned show cause notice and therefore, he may not get any benefit and therefore, the impugned show cause notice is not maintainable.

4. On the other hand, the learned counsel for the Respondents would contend that the person, who has signed the impugned show cause notice, is actually holding the post of Additional Registrar, Chennai Region, but at present, due to the vacancy, he is also holding the post of in charge Managing Director and therefore, the impugned show cause notice is not passed in the capacity of revisional authority i.e. Managing Director and only in the capacity of Additional Registrar.

5. Be that as it may. Considering the facts and circumstances of the case, the apprehension of the Petitioner need not be worried because the impugned order is only a show cause notice, for which he will have to give his explanation and on receipt of such explanation only, the concerned authority will pass orders, after giving opportunity to the Petitioner, on merits and in accordance with law. Even if any order is passed against the Petitioner, it could be challenged before some other authority, namely, the revisional authority, namely, the Registrar of Cooperative Societies. Therefore, the Petitioner is permitted to give his explanation to the impugned show cause notice within a period of one week from the date of receipt of a copy of this order and the enquiry proceedings shall be completed within the statutory period thereafter.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To:

1.The Managing Director,
Management of Triplicane Urban Cooperative
Society Limited, Chennai-5

2.M.Sambamurthy, retired Cooperative Sub Registrar/
Enquiry Officer, Triplicane Urban Cooperative
Society Limited, Chennai-5

+1 cc to Mr.V.Ajoykhose, advocate,sr.42511

+1 cc to Mr.L.P.Shanmugasundaram,advocate,sr.42647.

sv(co)
krd 23/8

WP.No.26168 of 2016



WEB COPY