

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:01.02.2016

Coram

THE HONOURABLE Mr. JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

W.A.No.94 of 2016

K.Nagarasu

...Appellant/Petitioner

V.

1.The State of Tamil Nadu,
Rep. By its Secretary,
Cooperation, Food and Consumer
Protection Department,
Secretariat, Chennai - 9.

2.The Registrar of Co-operative
Societies,
Kilpauk, Chennai - 10.

3.The Registrar (Housing),
No.493, Anna Salai,
TNHB Complex, Nandanam,
Chennai - 35.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order of this Court dated 21.07.2015 made in W.P.No.19903 of 2015 petition filed under article 226 of the constitution of India for the issuance of writ of certiorarified Mandamus, calling for the entire records pertaining to G.O.(D) No.98 dt. 15.5.2014 of the first respondent and quash the same and to extent all consequential benefits arising thereto

For Appellant

: Mr.P.Kannan

For 1st Respondent

: Mrs.A.Sri Jayanthi

Special Government Pleader

For 2nd Respondent

: Mr.L.P.Shanmugasundaram

JUDGMENT

(Judgment of the Court was delivered by M.VENUGOPAL, J.)

Heard the learned counsel for the Petitioner, Mrs.A.Sri Jayanthi, Learned Special Government Pleader for the 1st Respondent and Mr.L.P.Shanmugasundaram, learned counsel for the 2nd Respondent and with the consent of both parties, the Writ Appeal itself is taken up for final disposal at the admission stage.

2.The Appellant/Petitioner has preferred the instant Writ Appeal as against the order dated 21.07.2015 in W.P.No.19903 of 2015 passed by the Learned Single Judge.

3.The Learned Single Judge, while passing the impugned order in W.P.No.19903 of 2015 (filed by the Appellant/Petitioner), on 21.07.2015, at paragraph 8, had observed the following:

"8.In fact, the Honourable Division Bench of this Court in the case of THE CHAIRMAN, TNEB AND ANOTHER VS. S.VENKATESAN [2014(5)MLJ 769], after analysing all the judgments on this point, refused to interfere with the decision of the authorities in refusing to revoke the suspension, more particularly in the case relating to corruption charges. At this stage, it would be appropriate to extract the relevant portion of the judgment, which reads as follows:

"25.The case of the petitioner is one of deemed suspension and merely because criminal prosecution is keeping prolonged and that the first respondent/writ petitioner is also kept under suspension for over 5 years, cannot be a ground to revoke the order of suspension with an consequential order of reinstatement. The cases referred to by the learned counsel appearing for the first respondent/writ petitioner would disclose that in some cases pursuant to the Court orders and orders of acquittal passed by the Criminal Court, orders of suspension have been revoked and in some cases, based on the recommendation made by the Chief Vigilance Officer, ADGP-Vigilance attached to TANGEDCO, orders of suspension have been revoked and each case depends upon its own facts and circumstances and in cases involving bribery and moral turpitude, there cannot be any uniform guideline especially with regard to revoking the orders of suspension."

and resultantly, dismissed the Writ Petition.

4.Assailing the validity, legality of the impugned order dated 21.07.2015 in W.P.No.19903 of 2015 passed by the Learned Single Judge, the Learned Counsel for the Appellant urges before this Court that the impugned order of the Learned Single Judge, in dismissing the Writ Petition, is against law and further the impugned order passed in the Writ Petition is also contrary to facts and merits of the case.

5.The Learned Counsel for the Appellant projects a plea that A1, one Murugeasan in C.C.No.1/2013 had joined service during March 2012 itself on revocation of suspension as per order of this Court dated 17.09.2010 in W.P.No.19153 of 2010, but the Appellant is kept under prolonged suspension.

6.The Learned Counsel for the Appellant contends that the Learned Single Judge had failed to appreciate that the prolonged suspension of the Appellant from service right from 18.09.2000 to till date is cruel and against the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1953.

7.Continuing further, it is represented on behalf of the Appellant that the Learned Single Judge should have considered that at the time of filing W.P.No.19903 of 2015, the Respondents had framed charges to initiate disciplinary proceedings without furnishing the necessary documents. Moreover, the representation dated 24.10.2014 of the Appellant/Petitioner submitted before the 3rd Respondent/Registrar (Housing), Chennai - 600 035 has not been complied with till date.

8.Lastly, it is submitted on behalf of the Appellant that the 1st Respondent had failed to consider the charges dated 27.12.2012 and the explanation of the Appellant dated 07.06.2014, which would establish that the continuance of suspension of the Appellant is no longer required.

9.This Court has perused the impugned order dated 21.07.2015 in W.P.No.19903 of 2015 passed by the Learned Single Judge in dismissing the Writ Petition filed by the Appellant and at this stage, this Court is not inclined to interfere with the impugned order passed by the Learned Single Judge, in view of the fact that the subject matter in issue relates to corruption charges. However, this Court, taking note of the fact that admittedly charges were framed against the Appellant/Petitioner in the pending disciplinary proceedings, in the interest of Justice, Fair Play, Equity and Good Conscience, even as a matter of prudence, directs the Respondents to complete the domestic enquiry initiated in respect of the Appellant/Petitioner within a period of three months from the date of receipt of a copy of this Judgment.

10.With the aforesaid observation and direction, the Writ Appeal stands disposed of. No costs.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

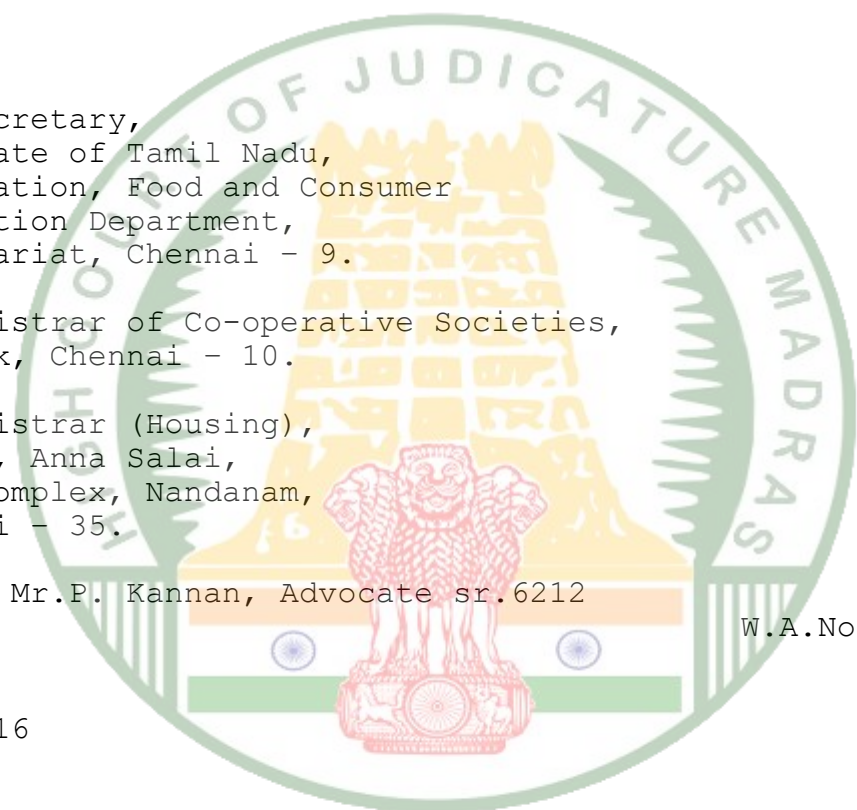
Sgl
To

- 1.The Secretary,
The State of Tamil Nadu,
Cooperation, Food and Consumer
Protection Department,
Secretariat, Chennai - 9.
- 2.The Registrar of Co-operative Societies,
Kilpauk, Chennai - 10.
- 3.The Registrar (Housing),
No.493, Anna Salai,
TNHB Complex, Nandanam,
Chennai - 35.

+ 1 cc to Mr.P. Kannan, Advocate sr.6212

W.A.No.94 of 2016

SKV(CO)
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