

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3185 of 2016

M.Janaki

... Petitioner

Vs.

1. The Deputy Registrar of
Co-operative Societies,
Nagapattinam Circle,
Nagapattinam District.
2. The President,
Z 719, Thittacheri Primary Agricultural
Cooperative Credit Society Limited,
Purakiraman - 609 703,
Nagapattinam District.
3. K.Thirunavukkarasu,
Enquiry Officer.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus call for the records relating to showcase notice in Na.Ka.No.2/2015, dated 21.01.2016 enclosing the enquiry report submitted by the third respondent dated 04.01.2016 and quash the same and further direct the second respondent to conduct disciplinary proceedings after complying with the directions issued in W.P.No.39708, dated 21.12.2015.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader

ORDER

By way of filing this writ petition, the petitioner seeks to quash the impugned show cause notice dated 21.01.2016 issued by the second respondent, with a further direction to the respondents to conduct the disciplinary proceedings after complying with the direction issued by this Court in W.P.No.39708 of 2015, dated 21.12.2015.

2. Heard both sides.

3. It is seen that the petitioner was initially issued with a charge memo dated 26.10.2015 by the President / second respondent herein. Thereafter, the petitioner has also submitted a representation dated 07.11.2015 asking the respondents to furnish necessary documents to face the departmental proceedings. However, the petitioner did not receive any reply from the respondents, hence, he filed a writ petition No.39708 of 2015 before this Court challenging the above said charge memo, whereby, at the time of hearing, learned Special Government Pleader appearing for the respondents undertook to furnish all the documents relied upon in the charge memo as sought for by the petitioner. Recording the said submission of the learned Special Government Pleader, this Court, by order dated 21.12.2015, disposed of the said writ petition with a direction to the respondents to furnish all the documents which they are going to rely on against the petitioner in the disciplinary proceedings.

4. In such circumstances, it is the contention of the learned counsel appearing for the petitioner that inspite of a specific direction of this Court as stated above, the respondents did not furnish any of the documents to the petitioner, but, on the contrary, without adhering to such direction of this Court, they issued the present second show cause notice dated 21.01.2016 enclosing the enquiry report submitted by the third respondent, which is nothing but an action to circumvent the direction of this Court as stated above, he pleaded.

5. Learned Special Government Pleader appearing for the respondents has brought to the notice of this Court a letter dated 16.02.2016 written by the third respondent - Enquiry Officer, whereby it is stated that the present impugned second show cause notice dated 21.01.2006 issued by the second respondent-President would be withdrawn and thereafter, by following the principles of natural justice, enquiry would be conducted. In my view, the third respondent - Enquiry Officer has no authority in law to withdraw the impugned show cause notice issued by the second respondent-President, who is the disciplinary authority.

6. This apart, as stated above, when the petitioner approached this Court challenging the first show cause notice issued by the President, this Court, by order dated 21.12.2015, passed in W.P.No.39708 of 2015, directed the respondents to furnish the documents which they relied upon against the

petitioner during the disciplinary proceedings. However, without adhering to such direction of this Court, the President / second respondent herein issued the present impugned second show cause notice, which is nothing but per-se violation of the law and would amount to flouting the order passed by this Court. Hence, though this Court is inclined to impose the cost upon the respondents for clear violation of the order passed by this Court stated supra, due to repeated request of the learned Special Government Pleader for the respondents not to impose any cost, this Court restrains from imposition of the cost. However, due to such an attitude of the respondent, the petitioner has been put to grave prejudice, hence, it leaves no option except to set aside the impugned order. Accordingly, the impugned order is set aside. Consequently, the writ petition stands allowed as prayed for. No Costs. WMP.No.2615 of 2016 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar of
Co-operative Societies,
Nagapattinam Circle,
Nagapattinam District.
2. The President,
Z 719, Thittacheri Primary Agricultural
Cooperative Credit Society Limited,
Purakiraman - 609 703.
Nagapattinam District.

+1cc to Mr.S.Kamadevan, Advocate, S.R.No.10131
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.10456
+1cc to the Government Pleader, S.R.No.10582

W.P.No.3185 of 2016

PPA(CO)
CA(14/03/2016)