

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.43295/2016

G.Gunasekaran

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Petitioner

Vs

- 1.The Registrar of Cooperative Societies
NVN Natarajan Maligai, EVR Periyar Road
Chennai 600 010.
- 2.The Joint Registrar of Cooperative Societies
Thirupur Region, Thirupur District.
- 3.The Deputy Registrar of Cooperative Societies
Dharapuram Circle, Dharapuram
Thirupur District.
- 4.The President
K797, Kongal Nagaram Primary Agricultural
Cooperative Credit Society, Kongal Nagaram
Post, Udumalaipettai Taluk,
Thirupur District.

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondents to disburse the subsistence allowance from the date of petitioner suspension i.e., from 06.01.2015 based on petitioner representation dated 09.11.2016.

For Petitioner : Mr.S.Nagarajan
For Respondents : Mr.L.P.Shanmugasundaram
Spl.GP [Coop]

ORDER

By consent, the writ petition is taken up for final disposal. Mr.L.P.S.Shanmugasundaram, learned Special Government Pleader accepts notice on behalf of the respondents.

2 The petitioner, while working as the Secretary in the services of the 4th respondent was involved in a criminal case

registered by the Criminal Investigating Wing CID, Coimbatore, in Cr.No.4/2015 for the commission of the alleged offence u/s.408 IPC and other allied offences, alleging that the petitioner along with six others, had misappropriated a sum of Rs.2.42 Crores. The petitioner would state that simultaneously, an enquiry u/s.81 of the Tamil Nadu Cooperative Societies Act, 1983, was also ordered and the petitioner has also remitted his part of amount. The petitioner would further state that in connection with the registration of the above said criminal case, the petitioner was arrested and remanded to judicial custody and was placed under deemed suspension vide proceedings of the 4th

respondent dated 06.01.2015. The grievance expressed by the petitioner is that though the petitioner has been placed under suspension right from 06.01.2015, he is yet to be paid with the subsistence allowance. In this regard, the petitioner has also submitted a representation dated 09.11.2016 to the 4th respondent and though it was received and acknowledged, he is yet to be favoured with any kind of response and hence, he has come forward with this writ petition.

3 The learned counsel appearing for the petitioner submitted that even for the sake of argument, the by-laws of 4th respondent / Society do not provide for payment of the subsistence allowance, he and his family have to eke out their livelihood and therefore, the non-payment of the subsistence allowance would offend Article 21 of the Constitution of India and as such, the petitioner is entitled to be paid with the subsistence allowance for his minimum and bare subsistence.

4 Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents would submit that in the absence of any relevant provisions in the by-law, the petitioner, being in the capacity of the Secretary, is not entitled to the subsistence allowance as he is in Managerial cadre and therefore, prays for dismissal of this writ petition.

5 This Court considered the rival submissions and also perused the materials placed before it.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 4th respondent to consider and dispose of the petitioner's representation dated 09.11.2016, on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate

the decision taken, to the petitioner.

7 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Registrar of Cooperative Societies
NVN Natarajan Maligai, EVR Periyar Road
Chennai 600 010.
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Cooperative Credity Society, Kongal Nagaram
Post, Udumalaipettai Taluk,
Thirupur District.

+1cc to Mr.S.Nagarajan, Advocate, S.R.No.73344

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.73837

ssk(co)
pmk.20.1.2017

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