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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.07.2016
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)Nos.5788 and 10701 of 2016
and

W.M.P. (MD)Nos.5190, 7999, 8295 and 8296 of 2016

S.Thangammal ... Petitioner in both petitions
Vs.

1.The Commissioner of Milk Production
and Diary Development,
Chennai-51.

2.The Deputy Registrar(Diary),
Diary Development,
Trichirappalli.

... Respondents in both petitions

PRAYER in W.P.(MD)No.5788 of 2016:Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent in his proceedings Na.Ka.No.441/Ka/2016, dated 10.03.2016 and quash the same.

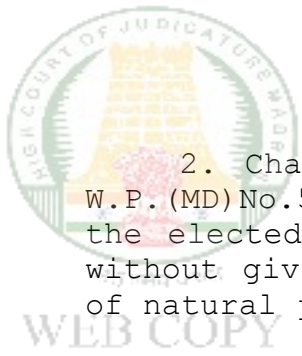
PRAYER in W.P.(MD)No.10701 of 2016: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent in his proceedings Na.Ka.No.498/Aa3/2016, dated 09.05.2016 and quash the same.

For petitioner
in both petitions : Mr.S.Vinayak for M/s.A.Joel Paul Antony

For respondents
in both petitions : Mr.M.Rajarajan
Government Advocate

COMMON ORDER

The petitioner is the president of the Milk Producers Co-operative Society (TRD 1257) at Tholarpatty, Trichy District. While the petitioner was discharging her duty as the elected President of the Milk Producers Co-operative Society, at the behest of some of the members of the Co-operative Society, a complaint was lodged on 08.03.2016 before the second respondent alleging that the petitioner has refused to sign in the cheque and not distributing the arrears amount to the members of the Society. Accepting the false complaint, the second respondent without conducting enquiry, had passed the impugned order dated 10.03.2016, by taking away the cheque issuing power from the petitioner. As a result, the petitioner was not allowed to operate SB A/c No.211401617. After taking away the cheque signing power of the petitioner, the second respondent also entrusted the same to the Incharge Senior Grade Officer, Musiri.



2. Challenging the same, the petitioner filed a writ petition in W.P.(MD)No.5788 of 2016 taking a ground that the cheque signing power of the elected President of the Co-operative Society cannot be taken away without giving any notice, which is against the violation of principles of natural justice.

3. When this Court has granted an order of interim stay in favour of the petitioner in W.M.P.(MD)No.5190 of 2016 in W.P.(MD)No.5788 of 2016 on 23.03.2016 for a period of four weeks, the said writ petition was not listed before this Court for further hearing.

4. For the reason that interim order granted by this Court dated 23.03.2016 was not extended and taking the situation, the second respondent passed another order again withdrawing the cheque signing power of the petitioner on the ground that interim order granted by this Court dated 23.03.2016 is only for a period of four weeks and the said order came to an end and not extended from time to time. Therefore the petitioner has come to this Court by filing a writ petition in W.P.(MD) No.10701 of 2016.

5. Considering the reason for not deciding the matter and the interim stay granted on 23.03.2016 was not extended, this Court cannot grant interim order in this petition also.

6. Pressing for passing interim order, the learned Counsel for the petitioner would submit that since some of the members took away the milk and caused financial loss to the Society, the petitioner has taken action against them. Hence, some of the members gave a false complaint as if the petitioner has refused to sign in the cheque. In view of the impugned order, the arrears of huge amount payable to the members of the Co-operative Society was not cleared. The second respondent without even giving reasonable opportunity or without holding any summary enquiry, passed the impugned order, withdrawing the cheque signing of the elected President and therefore, the same is liable to be set aside.

7. Adding further, the learned Counsel for the petitioner would submit that once this Court has passed an order of interim stay on 23.03.2016, for the simple reason that the interim order was not extended in view of the closure of the Court for summer vacation, the second respondent ought not to have passed the similar order once again by withdrawing the cheque signing power, even without verification from the Counsel for the respondents.

8. The learned Counsel for the petitioner would further submit that some of the members of the Co-operative Society had illegally taken away 23 litres of milk from the Society, for which a complaint has also been lodged by the Secretary - Mr.P.Sivachandran. Without even conducting audit properly, the petitioner cannot pay or distribute the arrears of the amount to the members of the Society. At this stage, taking advantage of the problem occurred in the Society, some of the members trespassed into the Society and ransacked the valuable things. As a result, it was not possible to issue cheque. Therefore, without conducting proper enquiry, the impugned order ought not to have been passed and hence, it has to be set aside.



9. The respondents filed vacate stay petition in W.P.(MD)No.5788 of 2016.

10. The learned Government Advocate appearing for the respondents would submit that the first contention raised by the petitioner that the cheque signing power was taken away from the petitioner, without giving any notice is totally misconceived for the reason that when the petitioner was discharging her duty as the President of Milk Producers Co-operative Society at Tholarpatty, Trichirappalli District, she has not timely distributed the wages to the milk vendors. Therefore, the members viz., M.Maheswari and five others have preferred a complaint on 08.03.2016 alleging that the amount towards the supply of milk to the Society was not settled by the President from the second half of February 2016. On receipt of the complaint, a communication was sent to the petitioner in R.O.C.No.441/K/2016, dated 09.03.2016 to ensure the timely payment to the members without any default. Again 8 more members have preferred a complaint against the mal-administration of the petitioner. Therefore, a detailed enquiry was ordered and a Senior Inspector (Dairy), Musiti II was directed to conduct enquiry into the above Society and file a detailed report. In the meanwhile, the Executive Committee members of the Co-operative Society were also requested to be present for enquiry before the second respondent on 22.03.2016.

11. However, in the meanwhile, a representation was submitted by the members of the Society requesting to convene a special Executive Committee meeting to bring a no confidence motion against the petitioner, since she is acting on her own without consulting the Executive Council which is also caused prejudice to the Co-operative Society. That apart, one R.Dhanalakshmi, Executive Council member also preferred a complaint on 11.02.2016 against the petitioner by stating that the petitioner has not conducted the meeting of Executive Council and the Minutes book are also being circulated to the house of the members and as a result, they are compelled to sign in the Minutes book. No doubt, on various complaints filed against the petitioner and also against the mal-administration of the Society, the first respondent called for a detailed report on the petitions vide Roc.No.500/K3/2016, dated 18.04.2016.

12. Adding further, the learned Government Advocate would submit that 100 members of the Co-operative Society also presented a signed memorandum to the second respondent highlighting the mis-deeds as well as non payment of amount due to them from the month of February. No doubt, a detailed enquiry has also been conducted and confirmed the fact.

13. Heard the submissions made by the learned Counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

14. When the petitioner was elected as the President of the Milk Producers' Co-operative Society, Tholarpatty, whatever internal problem faced by her, for any reason she could not commit default in paying the money payable to the members, who are bringing milk to the Society. The poor villagers are bringing milk to the Co-operative Society to sell, so



as to eke out their livelihood. The records would show that the petitioner, being the elected President stating her internal reasons, has not disturbed the bill prices of the milk after receiving the same from the members of the Society. Therefore, several complaints have been filed. At one point of time, the matter was brought to the notice of the second respondent stating that the defaulters, by losing their patience, have entered into the office of the Society and ransacked and a law and order problem had also occurred. Notice dated 01.06.2016 issued by the Tahsildar, Thottiyam also shows that a joint complaint was given by 130 members of the Co-operative Society alleging that for 15 days, the milk charges were not disbursed to them. As a result, a notification was given to Tahsildar that they have planned to conduct road blockage on the road. Immediately on receipt of the same, the Tahsildar of Thottiyam has held a peace committee meeting on 01.06.2016 at 02.30 p.m.

15. The records shows that the peace in the Thottiyam village was frequently disturbed because of the mal-administration of the Society, and also for the reason that the petitioner has not come forward to settle the dues and charges payable to the members, for the supply of their milk. Therefore, a notice dated 09.03.2016 was issued by the Deputy Registrar (Dairy), Trichirappalli to the petitioner. A perusal of the same, it clearly indicates that it has been received by a staff of the petitioner Society. In the said notice, a request was made to the petitioner to take all steps to discharge the arrears of milk charges to the members of the Society, failing which, action will be taken. Even after that notice, the petitioner has not come forward to take any amicable decision to disburse the charges to the members. Therefore, the impugned order came to be passed on 10.03.2016. When 130 members of the Co-operative Society alleged that for 15 long days, their dues have not been paid and as a result a threat was given to the Revenue Department that the road blockage would be conducted, the respondent has given notice on 09.03.2016 asking the petitioner to solve the problem, failing which action will be taken. Finding that no action was taken, considering the serious problem that the members would conduct road blockage, the impugned order has been passed. That order appears to be withdrawing the cheque signing power of the petitioner is only temporary. The reason is that the respondents have also initiated the proceedings under Section 81 of Tamil Nadu Co-operative Societies' Act and the same is pending. Under such circumstances, this Court is not able to find any merit in both the writ petitions. Besides, even if this Court intervenes at this stage by setting aside impugned order passed by the second respondent, there is no guarantee that the petitioner would restore peace in the village. Therefore, this Court is not able to find any merit in both the Writ Petitions.

16. The learned Counsel for the petitioner submitted that the petitioner has already settled the arrears of Rs.30 Lakhs.

17. However, this matter has to be looked into by the Authority concerned, while completing the proceedings under Section 81 of Tamil Nadu Co-operative Societies' Act.



18. With the above observations, both the Writ Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(CS-II)

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Sub Assistant Registrar

To

1.The Commissioner of Milk Production and Diary Development,
Chennai-51.

2.The Deputy Registrar(Diary),
Diary Development,
Trichirappalli.

+1cc to M/S.A.Joel Paul Antony, Advocate in SR.No.34768

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