

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP.No.31009 of 2014

and

M.P.No. 1 of 2014

G.Sivakumaran Nair

...Petitioner

Versus

1. The Commissioner,
Civil Supplies and Consumer Protection
Department,
Ezhilagam, IVth Floor, Chepauk,
Chennai 600 005.
2. The Deputy Commissioner (North)
Civil Supplies and Consumer Protection
Department,
Ezhilagam (Annexe), IVth Floor, Chepauk,
Chennai 600 005.
3. The Managing Director,
Park Town Co-Operative Wholesale
Stores Ltd., (CHINTHAMANI)
G 133, First Main Road,
Anna Nagar East,
Chennai 600 102.
4. The Assistant Commissioner (Avadi)
O.C.F.Road, Avadi, Chennai-54
5. The Registrar of Co-operative Societies,
No.170, E.V.R. Salai,
Chennai.

...Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified calling for the records pertaining to the Notice dated 19.11.2014 in Na.Ka.No. 242/14-15/P1(1) issued by the 3rd respondent herein and quash.

For Petitioner : Mr.G.Mohanakrishnan

For Respondents: Mr.P.Shanmugasundaram
Special Additional Government Pleader
for R1 to R3 & R5
: No apperance for R4

ORDER

The relief sought for in this writ petition is to quash the memo dated 19.11.2014 issued by the 3rd respondent.

2. On a perusal of the impugned memo which was issued by the Managing Director of the 3rd respondent/Co-operative Society. Further, the memo states that certain irregularities were found while distributing essential commodities under the Public Distribution System and the writ petitioner was directed to submit his explanation within three days from the date of receipt of the memo. Instead of submitting the explanation/objections, the writ petitioner has moved this writ petition challenging the very memo issued by the 3rd respondent in proceedings dated 19.11.2014.

3. This Court is of the view that the two issues are to be considered for taking a decision in this writ petition. Firstly, the memo was issued by the 3rd respondent/co-operative society, which is registered under the Tamil Nadu Co-operative Societies Act. Thus, no writ can be entertained against the actions initiated by the Management of the Co-operative society in view of the legal principles settled by the larger Bench of this Court in the case of Marappan Vs. Deputy Registrar of Co-operative Societies, reported in 2006 4 CTC 689.

4.Co-operative Society, being not a State within the meaning of Article 12 of the Constitution of India. The remedy lies to the employees of the Co-operatives under the provisions of the Tamil Nadu Co-operative Societies Act.

5. Secondly, the order challenged, is a charge memo issued by the 3rd respondent/Co-operative Society, seeking explanation of the writ petitioner. A memo/show cause notice can be challenged only on limited grounds and if such a memo/show cause notice is issued by an incompetent authority, having no jurisdiction or if an allegation or mala fides are raised or the notice is in violation of the statutory rules, then a writ can be entertained. In the absence of any of these grounds, no writ can be entertained against the memo/show cause notice issued by the competent authorities, seeking explanations/objections from the officials concerned. At the outset, the writ petition cannot be entertained in view of the fact that the same is not

maintainable. Since, the impugned charge memo was issued by the Management of the Co-operative Society, which is not a State. Thus, this Court is of the opinion that the other grounds raised in this writ petition on the merits ,need not be considered at this stage.

6.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

msrm/kak

To

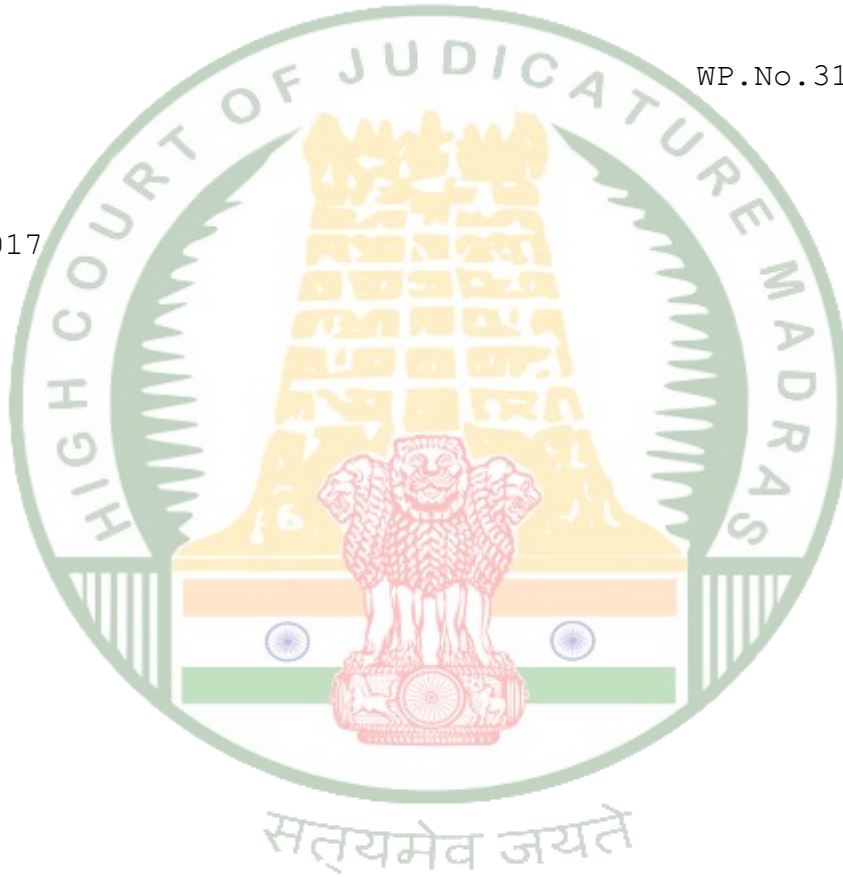
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+1 cc to the Govt Pleader sr 72847
+1 cc to Mr.S.Janarthanam Advocate sr 72440
+1 cc to Mr.L.P.Shanmugasundaram Advocate (co-op)
sr 73019

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