

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2017

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.6938 of 2017
and W.M.P.Nos.7527 and 7528 of 2017

G.G.Thirupathi

.. Petitioner

vs

1.The Deputy Registrar of Co-operative
Societies, Tirupattur Circle,
Tirupattur, Vellore District.

2.C.2143, Andiappanur Primary Agricultural
Co-operative Credit Society,
Rep. by its President,
Andiappanur Taluk, Vellore District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, calling for the records of the notice and letter in Na.Ka.No.976/2014 Vea.Sa dated 09.01.2017 and 07.03.2017 on the file of the first respondent and consequential order of the second respondent dated 18.03.2017, quash the same.

For Petitioner : Mr.C.K.Chandrasekhar

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

सत्यमेव जयते

O R D E R

The present writ petition is directed against the impugned proceedings issued by the Deputy Registrar of Co-operative Societies, Tirupattur Circle, Vellore District on 09.01.2017 directing the President of C.2143 Andiappanur Primary Agricultural Co-operative Credit Society to terminate the service of the petitioner, failing which, the entire elected Board of the Society would be dissolved in exercise of power under Section 88 of the Tamil Nadu Co-operative Societies Act.

2.Learned counsel appearing for the petitioner would submit that when the petitioner was appointed as an Office Assistant on

18.04.2005, after working for about 8 years continuously, finding that his service has not been regularized approached the authorities under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981. The Labour Officer after considering the case of the petitioner passed an order directing the second respondent to confer the permanent status to the petitioner on 24.12.2013. Till date, the said order has not been questioned and was allowed to become final. The first respondent, Deputy Registrar of Co-operative Societies, Tirupattur Circle has no authority or jurisdiction to direct the President of the second respondent Society to terminate the service of the petitioner. When a direction was issued by the first respondent in the year 2013 to terminate the service of the petitioner, after giving notice, an order of termination was passed. This was questioned by the petitioner before the Labour Officer. Taking that termination order, the petitioner approached the Labour Officer, Vellore. During the pendency of the matter, the second respondent and the petitioner arrived at a settlement under Section 12(3) of the Industrial Disputes Act, 1947 on 29.10.2015. By virtue of the aforementioned settlement, the petitioner was permitted to work. In the meanwhile, once again the Deputy Registrar of Co-operative Societies has issued the warning letter to the President of the second respondent Society to terminate the service of the petitioner, failing which, the elected Board of the Society will be dissolved. When the Deputy Registrar of Co-operative Societies has no authority or jurisdiction to dissolve the elected Board of the Co-operative Society, the impugned proceedings dated 09.01.2017 is liable to be set aside.

3. In the above background, this Court directed the learned Special Government Pleader appearing for the respondents to take instructions to apprise the Court whether the Deputy Registrar of Co-operative Societies under the Tamil Nadu Co-operative Societies Act has got power. After referring to Section 88 and Section 36 of the Tamil Nadu Co-operative Societies Act, the learned Special Government Pleader is unable to support the impugned order. When the Registrar or Joint Registrar alone are the authority to pass an order superseding or dissolving the elected Board of Co-operative Society after issuing notice, calling for enquiry and conduct an enquiry, the Deputy Registrar of Co-operative Societies has not been vested with any power whatsoever.

4. Mr. N. A. Baskaran, Deputy Registrar of Co-operative Societies, Tirupattur Circle, Vellore District, who is present before this Court, realizing the mistake in issuing the aforementioned two proceedings requested the Court to set aside the impugned order as this has been wrongly issued.

5. Recording the above submission and also taking into consideration that the Deputy Registrar of Co-operative Societies has no jurisdiction or authority to issue any warning letter to the second respondent to dissolve the elected Board or Directors of the second respondent Society for not complying with the direction to terminate the service of the petitioner, this Court is inclined to set aside the impugned order passed by the first respondent. Accordingly, the impugned order is set aside. It is made clear that the second respondent at any point of time henceforth should not issue any such direction to any of the Co-operative Societies as he is not having any jurisdiction.

6. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

1. The Deputy Registrar of Co-operative Societies, Tirupattur Circle, Tirupattur, Vellore District.

+1 CC to M/s. L.P. Shanmugasundaram, sr 21507
+1 Cc to Mr. Palanisamy, Advocate sr 21203
+1 CC to Mr. Chandrasekar, sr 21204
+1 CC to Govt. Pleader sr 21310

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