

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No. 21964 of 2017
and
W.M.P.Nos.23017 & 23018 of 2017

M. Balamurugan

..Petitioner

Vs.

- 1.The Registrar of Co-operative Societies,
No.170, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Omalur Circle,
Omalur,
Salem District.
- 3.The President,
The TANJEDCO,
Mettur Workshops Circle and
Thermal Power Section-II
Employees Co-operative Thrift and
Credit Society Limited, No.S.544,
Mettur Dam-1.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order of the 2nd respondent passed in Na.Ka. 4037/2015 Nu.Ku. Dated 04.07.2017 to cancel the promotions effected to the petitioner and to recover the excess salary as if paid in the irregular promotional post and the consequential show cause notice dated 07.07.2017 issued by 3rd respondent and to quash the same.

For Petitioner : Ms. S.T.P. Kuilmozhi.

For Respondents : Mr.L.P. Shanmugasundaram,
Special Government Pleader (Co-Op
Societies) for R1 & R2

O R D E R

The internal communication between the Deputy Registrar of Co-operative Societies and the third respondent President of Co-operative Societies dated 04.07.2017 and consequent show cause notice issued by the third respondent dated 07.07.2017 are under challenge in this writ petition.

2.The writ petitioner was appointed as an Appraiser and subsequently appointed as Clerk in the third respondent-society. The writ petitioner was appointed as a Clerk from the date of initial appointment, and the salary was also paid with retrospective effect. The Deputy Registrar, who is the controlling authority under the provisions of the Tamil Nadu Co-operative Societies Act found certain irregularities in appointing the writ petitioner as Clerk with retrospective effect and issued an instructions to the third respondent President in proceedings dated 04.07.2017 directing him to initiate appropriate action under the law in order to rectify the irregularity.

3.Pursuant to the instructions given by the second respondent, the third respondent President issued a show cause notice in proceedings dated 07.07.2017. Instead of submitting explanations/objections on the show cause notice, the writ petitioner preferred this writ petition. Challenging the same on the ground that the Deputy Registrar has issued a direction to the third respondent and therefore the show cause notice issued pursuant to that is unsustainable.

4.The internal communication/Instructions issued by the second respondent/the Deputy Registrar to the third respondent will not provide any cause of action to the writ petitioner to file this writ petition. The Appointing Authority for the writ petitioner is no doubt third respondent under the by laws of the Co-operative Societies. Thus, the Appointing Authority in proceedings dated 07.07.2017 issued a show cause notice directing the writ petitioner to submit his explanation/objections on the alleged irregularity said to have been committed by the competent authority under the Act.

5.Thus, it is left open to the writ petitioner to submit his explanations/objections to the show cause notice and explain his defence for retaining his position as a Clerk. Therefore, the writ petition filed under Article 226 of the Constitution of India, at this point of time, challenging the show cause notice is absolutely misconceived. Further, the

internal correspondence between the second and third respondent will not constitute a cause of action for moving this writ petition.

6.The writ petitioner has chosen to challenge the internal communication in order to over come the judgement of this Court passed in the case of K.Marappan Vs. Deputy Registrar of Co-operative Society, Namakkal Circle, Namakkal - 636 001 and another reported in 2006 4 CTC 689.

7.Under these circumstances, this Court cannot consider the grounds raised by the writ petitioner on merits in this writ petition. Even otherwise, the show cause notice dated 07.07.2017 is under challenge and it is not a final order and the writ petitioner has to submit his explanation in order to defend his case.

8.Thus, the writ petition filed against the order of Co-operative Societies is not maintainable and Co-operative Societies being not a State within a meaning of Article 12 of the Constitution of India, no writ can be entertained. Accordingly, the writ petition stands dismissed. Consequently, connected Miscellaneous Petitions are also closed. However, no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rpl/sk

To

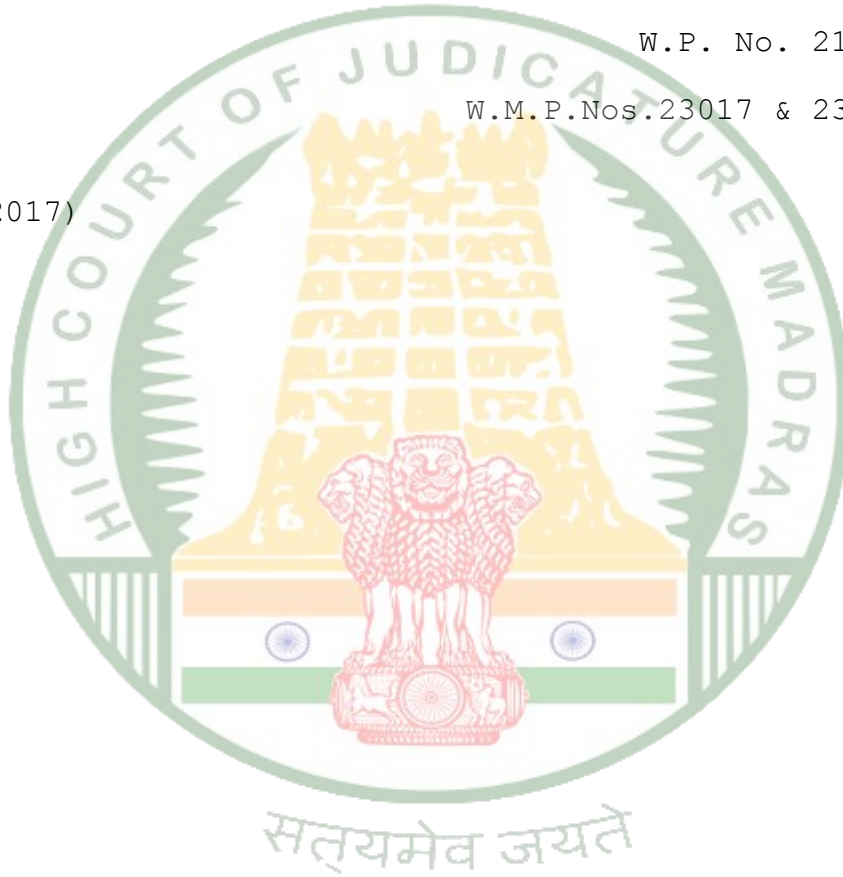
1. The Registrar of Co-operative Societies,
No.170, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.
2. The Deputy Registrar of Co-operative Societies,
Omalur Circle,
Omalur,
Salem District.

3. The President,
The TANJEDCO,
Mettur Workshops Circle and
Thermal Power Section-II
Employees Co-operative Thrift and
Credit Society Limited, No.S.544,
Mettur Dam-1.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr. 60046
+1cc to Mrs.S.T.P.Kuilmozhi, Advocate Sr. 59558

W.P. No. 21964 of 2017
and
W.M.P.Nos.23017 & 23018 of 2017

AR(V)
VR(27/10/2017)



WEB COPY