

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.13403 of 2017

and

W.M.P. No.14437 of 2017

C.Subramaniam .. Petitioner

Vs

1.The Registrar of Co-op. Societies,
Office of the Registrar of Co-op. Societies,
No.170, EVR Periyar Salai,
Kilpauk, Chennai -10.

2. The Joint Registrar of Co-op. Societies,
Office of the Joint Registrar of Co-op. Societies,
Erode Region, Mohankumaramangalam Salai, (1st Floor),
Soorampatti, Erode -638 009.

3. The Deputy Registrar of Co-op. Societies,
Erode Circle, Office of the Joint Registrar of
Co-op. Societies, Erode Circle,
Mohankumaramangalam Salai, (1st Floor),
Soorampatti, Erode -638 009.

4. The Co-op. Sub-Registrar/Field Officer,
Office of the Co-op. Sub-Registrar/Field Officer,
Perundurai, Erode -638 052.

5. No.2026 Nallampatti Primary Agricultural
Co-op. Credit Society Limited,
Nallampatti, Thudupathi (Via),
Perundurai Taluk, Erode District,
Pin Code □ 638 057.

6. P.G.Sampathkumar

7. C. Palani

8. Krishnaveni

9. P. Subramani

10.C.Gopalakrishnan

11.K.Chandrasekaran

12.K.R.Natarajan

13.G.Dharmalingam

14. C.Gopalasamy

15. R.Gunasundari. .. Respondents

PRAYER : This Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 3rd respondent resulting in the impugned "no confidence motion" proceedings dated 15.05.2017 presided over by the 4th respondent as communicated by the 3rd respondent vide his letter No.Na.Ka.1388/2017/Sa.Pa dated 16.05.2017 and quash the same and further direct the 3rd respondent to permit the petitioner to assume the office of the President of the 4th respondent society and pass such other or further orders.

For Petitioner :Mr.C.V.Jayaraman

For Respondents :Mr.L.P.Shanmuga Sundaram,
Special Government Pleader for R1 to R5.

Mrs.T.P. Savitha for R6 to R15.

O R D E R

This Writ Petition has been filed, seeking to quash the proceedings of the third respondent, dated 16.05.2017, whereby, "no confidence motion" has been brought against the petitioner, and consequently, to direct the 3rd respondent to permit the petitioner to assume the Office of the fourth respondent/Society as President.

2. The learned counsel appearing for the petitioner submits that, initially, the petitioner had been appointed as President in the Office of the fifth respondent/Society, which is a Primary Agricultural Co-operative Credit Society from 09.05.2013 till 15.05.2017, (viz., the date on which he was removed from the said post), pursuant to the "No confidence motion" brought against the petitioner by the respondents 6 to 13 under the Rule 62 of the Tamil Nadu Co-operative Societies Rules, 1988.

3. The case of the petitioner is that non confidence motion has been brought against the petitioner by the respondents 6 to 13, only at the instance of respondents 14 and 15. The petitioner would further state that he has initiated disciplinary proceedings against the respondents 14 and 15, and out of rage, with an intention to remove the petitioner from holding the aforesaid post, they instigated the respondents 6 to 13 to bring non confidence motion against the petitioner. Setting out the afore mentioned facts, the petitioner made a representation to respondents 1 to 3, the said representation has not evoked any response, and without even considering the petitioner's representations dated 03.05.2017 and 05.05.2017, the 3rd respondent issued a notice to the petitioner dated 09.05.2017 stating that "no confidence motion" proceedings against the petitioner will be conducted on 15.05.2017. Pursuant to which, the petitioner sent a legal notice to the 3rd respondent, requesting him not to conduct "no confidence motion" proceedings against him and sought for the certain particulars, which formed the basis for issuance of such proceedings. But, the third respondent, had mechanically proceeded to hold the "no confidence motion" without furnishing the particulars, which was relied upon by the respondents 6 to 13, in bringing about such motion. The third respondent also appointed the fourth respondent to preside over the proceedings. The third respondent communicated the proceedings held on 15.05.2017 vide his letter dated 16.05.2017

stating that the petitioner has been removed from the office. Challenging the proceedings dated 15.05.2017, and the consequential communication sent by the third respondent, dated 16.05.2017, the present Writ Petition has been filed.

4. The learned Senior counsel for the petitioner would fairly submit that there is an alternate remedy available under Section 90 (9) of the Tamil Nadu Co-operative Societies Act, 1983 to file a petition, however, requested before this Court that till the disposal of the said petition, the interim order already granted by this Court dated 25.05.2017 may be extended.

5. In response to the above submission made by the learned Senior Counsel for the petitioners, the learned Special Government Pleader for the Co-operative Society would submit that has no objection in adopting such course, provided that the petitioner he has to co-operate for the disposal of the said petition before the concerned authority.

6. In the light of the submissions made by the parties, this Writ Petition is disposed of with a direction to the petitioner to file a petition under Section 90 (9) of the Tamil Nadu Co-operative Societies Act, 1983, within a period of one week from the date of receipt of a copy of this order, and thereafter, the concerned authority shall dispose of the said petition on merits and in accordance with law, within a period of three months after affording an opportunity to the parties concerned. The petitioner shall also co-operate with the enquiry before the authority concerned for the effective disposal of the said petition. If the said petition is filed within the aforesaid period, it is made clear that till the Petition is disposed of by the concerned Authority, 'the order of status quo already granted by this Court on 25.05.2017 shall remain in force.

7. In the result, the writ petition is disposed of, on the afore said terms. Consequently, connected Miscellaneous Petition is closed. No costs.

06.09.2017

Index: Yes/ No

Speaking order/ Non speaking order

rkp

To

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D. KRISHNAKUMAR J.

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