

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17875 of 2015

And

M.P.Nos.1 and 2 of 2015

K.Kalyanam

.. Petitioner

vs.

1.The Co-operative Sub Registrar/Enquiry Officer,
Kondal Primary Agricultural Co-operative
Credit Society,
Kondal, Sirkazhi Taluk,
Nagapattinam District.

2.The President,
ZB-63, Kondal Primary Agricultural
Co-operative Credit Society,
Kondal, Sirkazhi Taluk,
Nagapattinam District.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the entire records relating to the order passed by the second respondent in his proceedings No. Nil, dated 9.6.2015 and quash the same and consequently directing the respondents to reinstate the petitioner into service in the second respondent Society as Secretary with all attendant benefits, backwages and other monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondent-1 : Mr.L.P.Shanmugasundaram,
Special Government Pleader (Co-

op).

For Respondent-2 : No Appearance

O R D E R

The order passed by the President of a Co-operative Society (second respondent) is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner contended that the writ petitioner was placed under suspension on 23.8.2014 and thereafter, the writ petitioner made a representation to the second respondent to grant subsistence allowance in accordance with the rules.

3. The second respondent issued an order in proceedings dated 9.6.2015, rejecting the claim of the writ petitioner. However, subsistence allowance is a basic right and in the event of placing an employee under suspension, the employer cannot deny subsistence allowance during the pendency of the disciplinary proceedings.

4. Non-payment of subsistence allowance is a vital factor in respect of continuance of the disciplinary proceedings. Thus, such a valuable right of an employee during the period of suspension, cannot be denied. Further, the employee during the period of suspension, cannot be

appointed to any other job. Thus, subsistence allowance is the livelihood

and the same is to be paid in accordance with the rules by the Competent Authorities.

5. However, in the case on hand, the order passed by the second respondent-Co-operative Society is under challenge and there is a remedy available available to the writ petitioner under the provisions of the Tamil Nadu Co-operative Societies Act, more-specifically, a revision under Section 153 of the Act, is to be filed before the Competent Authorities.

6. The second respondent-Co-operative Society, being not a State within the meaning of Article 12 of the Constitution of India, this Court cannot entertain a writ petition. The legal position is settled by a larger Bench of this Court in the case of **K.Marappan vs. Deputy Registrar of Co-Operative Societies, Namakkal Circle, Namakkal [(2006) 4 CTC 689 (FB)]**. सत्यमेव जयते

7. In this view of the matter, it is left open to the writ petitioner to approach the Competent Revisional Authority by filing a revision petition under the provisions of the Tamil Nadu Co-operative Societies Act and if it is filed, it is for the Authorities to consider the same and take appropriate decision in this regard.

S.M.SUBRAMANIAM, J.

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8. With this observation, the writ petition stands dismissed.

However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

21-08-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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सत्यमेव जयते WP No.17875 of 2015

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