

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18726 of 2016

And

W.M.P.No.16353 of 2016

B.Kandasamy

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Villupuram, District.
2. The Deputy Registrar of Co-operative Societies,
Tindivanam Circle, Jayapuram,
Tindivanam, Villupuram District.
3. The Domestic Enquiry Officer/CSR (Retired)
Nolambur Primary Agricultural Co-operative Credit Society,
Nolambur and Post, Tindivanam Taluk,
Villupuram District.
4. The President,
Nolambur Primary Agricultural Co-operative Credit Society,
Nolambur and Post, Tindivanam Taluk,
Villupuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the second respondent to provide 100% subsistence allowance from 01.03.2016 to till dated and further continuously till completion of the Disciplinary Proceedings as per the order in W.P.No.10150 of 2015 dated 08.04.2015.

For Petitioner : Mr.R.Karunagaran

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

O R D E R

The relief sought for in this writ petition is for a direction to direct the second respondent to provide 100% subsistence allowance from 01.03.2016 to till date and further,

continuously pay 100% subsistence allowance till the completion of the disciplinary proceedings.

2.The writ petitioner, who was a Secretary of the fourth respondent-Co-operative Society, on account of initiation of the disciplinary proceedings, the writ petitioner was placed under suspension and the disciplinary proceedings are in progress.

3.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner is entitled for 100% subsistence allowance and therefore, the same has to be paid with effect from 01.03.2016. In order to substantiate his contention, the learned counsel relied on the earlier order passed by the Society in proceedings dated 18.03.2016, wherein it is stated that the 100% subsistence allowance paid to the writ petitioner was reduced to 50% with effect from 01.03.2016.

4. No doubt, this Court is of the opinion that 100% subsistence allowance already granted to the writ petitioner, was certainly erroneous and there is no provision under the Tamil Nadu Co-operative Societies Act, the Rules or the by-laws to provide 100% subsistence allowance to the employees, who are under suspension. The employees under suspension are entitled to get 50% subsistence allowance and the learned counsel for the writ petitioner admits that the writ petitioner is getting 50% subsistence allowance.

5.Thus, the respondents are liable to continue the payment of 50% subsistence allowance till the order of suspension is revoked. However, there is no provision to grant 100% subsistence allowance for an employee, who is under suspension. This being the factum of the case, the prayer sought for in this writ petition, cannot be granted.

6.This apart, the relief sought for by the writ petitioner is against the Co-operative Society, which is not a State, within the meaning under Article 12 of the Constitution of India and in view of the legal principles 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}, no writ can be entertained against a Co-operative Society.

7. For all these reasons, the relief sought for, cannot be granted. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

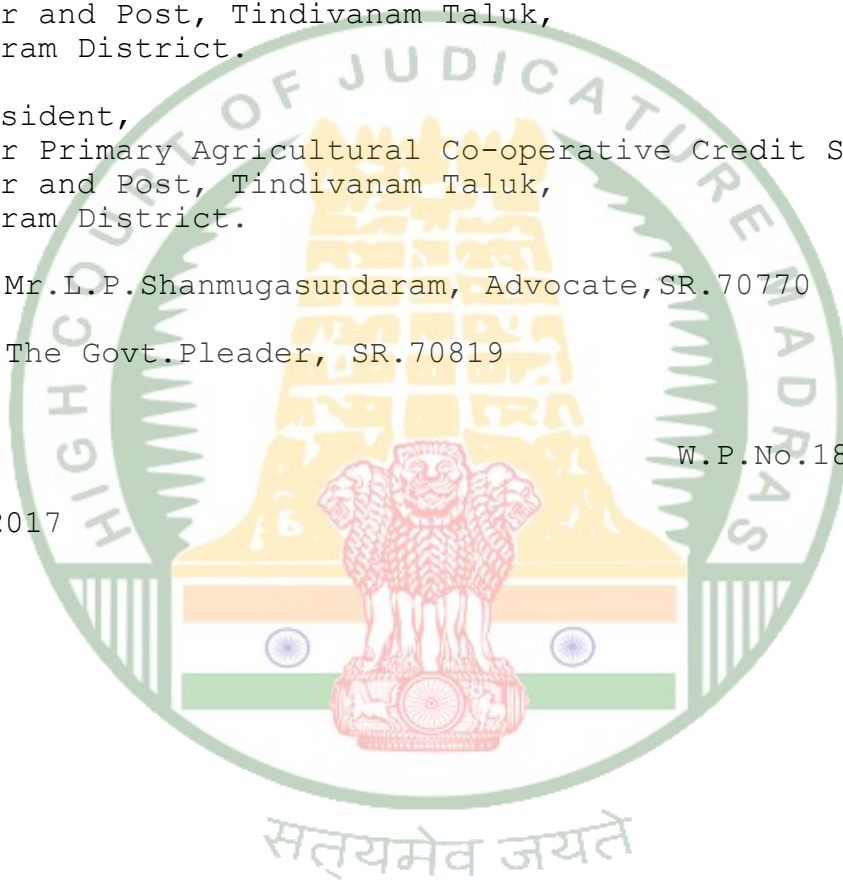
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To

1. The Joint Registrar of Co-operative Societies,
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 2. The Deputy Registrar of Co-operative Societies,
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Nolambur and Post, Tindivanam Taluk,
Villupuram District.
- + 1 cc to Mr.L.P.Shanmugasundaram, Advocate, SR.70770
- + 1 cc to The Govt.Pleader, SR.70819

W.P.No.18726 of 2016

NR 24/11/2017



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