

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.17654 of 2017

M.Ganesan

... Petitioner

.Vs.

1. The Registrar of Cooperative Societies,
170, E.V.R. Periyar High Road,
Kilpauk, Chennai - 600 010
2. The Joint Registrar of Cooperative Societies,
Collectorate Complex,
Dharmapuri-636 705.
3. Deputy Registrar of Cooperative Societies,
Collectorate Complex,
Dharmapuri-636 705.
4. President,
Thatordanahalli Primary Agricultural
Co-operative Credit Society Ltd.,
Thandukarnahalli (PO)
PalaCode (TK) - 636 808.Respondents

Prayer : Petition filed Under Article 226 of the Constitution of India to issue of Writ of certiorarified Mandamus, directing the respondent to consider the representation dated 05/06/2017 of the petitioner for reinstatement and subsistence allowance and to pass order in accordance with law within the prescribed period.

For Petitioner : Mr.P.Anbarasan

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

O R D E R

The learned counsel for the writ petitioner contended that the Registrar of Cooperative Societies is not entertaining any Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act.

2. In order to redress the grievance of irregular payment of subsistence allowance this Court is of the view that subsistence allowance is the basic right and the denial amounts to violation of Article 21 of Constitution of India. No employee placed under suspension can be left without the payment of subsistence allowance. Therefore, the disciplinary proceedings conducted without paying the subsistence allowance will become void.

3. The learned counsel submitted that he is ready and willing to go before the competent authority viz., the Joint Registrar of Co-operative Societies by way of Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act. However, such Revision Petition is not entertained by the authorities by stating that the Co-operative Societies are not passing orders or not taking any decisions in this regard.

4. Therefore, this Court is inclined to direct the Registrar of Co-operative Societies, Kilpauk, Chennai to issue suitable circular to all the Registrars and Joint Registrars in the State to entertain the Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act, even if no orders are passed by the respondents granting or rejecting the subsistence allowance.

5. The Registrar is bound to implement the very spirit of Section 153 of the Tamil Nadu Co-operative Societies Act. Even in the cases of non payment of subsistence allowance, action can be taken by the Competent Authority. Such being the spirit of the provision, it is for the Registrar to issue suitable circular to the Registrars or Joint Registrars of the State to entertain the Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act, in order to redress the grievances of the employees of the Tamil Nadu Co-operative Societies who are under suspension and the subsistence allowance has not been paid.

6. In the case on hand, the writ petition is filed for a direction to consider the representation dated 05.06.2017. Soon after filing the representation on 05.06.2017, the present writ petition is filed on 27.06.2017 and this Court cannot expect to consider such representation within a short span of period. However, the representation has also been sent to many authorities and the learned counsel appearing for the writ petitioner admitted that no Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies was filed by the writ petitioner in this regard.

7. Such being the factual aspects of this matter, this Court is not inclined to entertain this writ petition because no writ petition can be entertained with regard to the grievances of an

employee working in the Co-operative Societies, unless his remedy under the Act is exhausted.

8.Hence, the writ against the Co-operative Societies cannot be entertained in view of the Larger Bench of this Hon'ble Court in K.Marappan Vs. The Deputy Registrar of Co-operative Societies, Namakkal Circle, Namakkal & Another (2006 (4, CTC 689)).

9.The writ petitioner has filed this writ petition indirectly seeking the prayer with regard to the payment of Subsistence Allowance no such direction to the authorities can be issued unless appropriate Revision Petition is filed under the provisions of Tamil Nadu Co-operative Societies Act.

10.In this view of the matter, no further adjudication is required and suitable application may be filed by the writ petitioner in accordance with law to redress his grievances.

11.With this observation, the writ petition stands dismissed. However, no order as to costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To.

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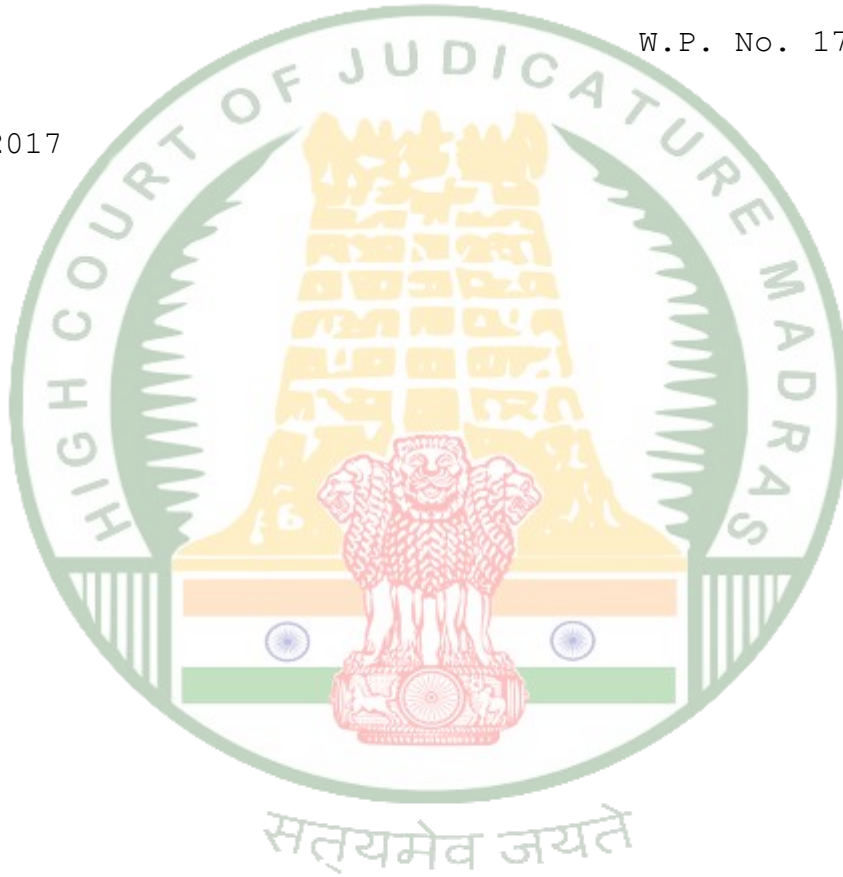
+ 1 cc to M/s.Anbarasan, Advocate,SR.48543

+ 1 cc to M/s.L.P.Shanmuga Sundaram, Advocate,SR.49052

+ 1 cc to The Govt.Pleader, SR.49421

W.P. No. 17654 of 2017

MG(CO)
NR 31/07/2017



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