

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 27.02.2017	Date of pronouncing Judgment 11.04.2017
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CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.25528 of 2013

R.Murugan .. Petitioner

Versus

1. The Joint Registrar of Cooperative Societies
Nagapattinam Region, Nagapattinam
Nagapattinam District.
2. The President
ZB 57, Thiruvallangadu Primary Agricultural
Cooperative Credit Society
Thiruvallangadu
Kutthalam Taluk
Nagapattinam District. ... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to permit the petitioner to join duty as Salesman in the 2nd respondent society as per order passed by the 1st respondent in his proceedings Na.Ka. No.602/2011 PDS dated 01.02.2013.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.V.Selvaraj

Additional Government Pleader

ORDER

This Writ Petition is filed seeking a Writ of Mandamus directing the respondents to permit the petitioner to join duty as Salesman in the second respondent society as per the order passed by the first respondent in his proceedings Na.Ka.No.602/2011 PDS dated 01.02.2013.

2. The case of the petitioner, in brief, is as follows:-

The petitioner is working as Data Entry Operator in Mayiladuthurai Consumer Cooperative Wholesale Store, Mayiladuthurai as daily wages employee for the past 2-1/2 years. The petitioner applied for the post of salesman in fair price shops running by Cooperative Societies and attended the interview before the District Level Selection Committee on 20.12.2012. The petitioner was selected by the first respondent and allotted Thiruvallangadu Primary Agricultural Cooperative Credit Society / second respondent herein and appointment order in proceedings Na.Ka. No.602/2011 PDS dated 01.02.2013 was also issued by the first respondent. When the petitioner approached the then Administrator of the second respondent society, the second respondent was not allowing him to join in the Society. Hence, this petition.

3. The averments made in the counter affidavit filed by the second respondent are as follows:-

The second respondent assumed charges in the second respondent society as President on 09.05.2013. Neither the office of the Joint Registrar of Co-operative Societies nor the office of the Deputy Registrar of Co-operative Societies informed him of the appointment of the petitioner. Further, no files relating to the appointment of the petitioner was handed over to the Board by the Administrator of the society and the petitioner has not approached the Board of the Co-operative Society. Therefore, the second respondent disputes the genuineness of the appointment order itself.

4. Upon hearing arguments of both sides in this regard, on 19.01.2017, this Court directed the Registrar of Co-operative Societies, Tamil Nadu, to enquire into the genuineness of the selection of the petitioner and consequential appointment order dated 01.02.2013 issued by the first respondent by affording opportunity of hearing to the petitioner. The petitioner was also directed to produce a xerox copy of the appointment order and other certificates/documents, if any. The petitioner was further directed to appear before the Registrar of Co-operative Societies, Tamil Nadu on 01.02.2017 for enquiry and he shall produce the original appointment order and other documents, if any, only for spot verification, during the course of enquiry, if required. This Court further directed that after enquiry, the report shall be submitted by the Registrar of Co-Operative Societies before this Court on or before 10.02.2017.

5. Pursuant to the direction of this Court, after

conducting detailed enquiry, the Registrar of Co-operative Societies, Tamil Nadu, has submitted a report before this Court. The relevant portion of the enquiry report discloses as follows:-

"11. It is respectfully submitted that based on the available records and details thereto, the following points come to be known:

(i) In the list of 104 candidates selected and allotted to various Cooperative Societies neither the name of the Thiruvallangadu Primary Agriculture Cooperative Credit Society nor the name of the petitioner Thiru.R.Murugan is found, though the petitioner Thiru.R.Murugan had applied for recruitment and received call letter for interview and attended the interview.

(ii) On perusal of proceedings No.602/2011 PDS dated 24.02.2013, it is found that no cost was apportioned to Thiruvallangadu Primary Agricultural Cooperative Credit Society towards the fee for the recruitment, whereas the total cost was apportioned to 88 societies for 104 vacancies.

(iii) On perusal of 40 proceedings in respect of Myladuthurai circle of Na.Ka.602/2011 PDS dated 01.02.2013 issued by the Joint Registrar / Chairman DRB, Nagapattinam, in which candidates selected for the post of PDS Salesman were allotted to various societies communicated through Deputy Registrar, Myladuthurai nkF ef/3412-2016 f dated : 27.02.2013, it is found that the proceedings was signed by the Joint Registrar / Chairman DRB, Nagapattinam and one office staff has initialled in all the 40 proceedings.

(iv) On perusal of the original proceedings No.Na.Ka.602/2011 PDS dated 01.02.2013 of the Joint Registrar / Chairman DRB, Nagapattinam, which is produced by the petitioner on 01.02.2017 for enquiry, it is found that the proceeding was signed by the Joint Registrar / Chairman DRB, Nagapattinam and not initialled by any other staff as in the case of all the other orders.

(v) With regard to the date of receipt of the Joint Registrar's proceedings dated 01.02.2013 the petitioner has made

contradictory statements viz., in his letter dated 30.05.2013 it is mentioned as 05.04.2013 and in his Deposition dated 01.02.2017 as 05.03.2013. Further, he has stated that he has received the Joint Registrar's proceeding from Thiru.N.Chandrasekaran, the Joint Registrar / Chairman DRB, Nagapattinam on 05.03.2013 whereas Thiru.N.Chandrasekaran, Joint Registrar retired from Government service on 28.02.2013.

(vi) Thiru.R.Rajagopalan, Cooperative Sub Registrar, the then Administrator, Thiruvalangadu PACCS in his deposition dated 01.02.2017 has also stated that he had passed resolution in respect of appointment of Salesman to Pazhayakudalur and Komal PACCS as an Administrator based on the proceedings issued by the Chairman / DRB viz., Joint Registrar of Cooperative Societies, Nagapattinam Region, and handed over the related files to the Boards concerned. And whereas in the case of Thiruvalangadu PACCS, he has not maintained any file relating to the appointment of Salesman and not passed any resolution in this regard and not handed over any file to the incoming elected Board. But he admits having issued a proceeding with anti date (28.02.2013) when the petitioner approached him on 8.5.2013.

(vii) The name of the petitioner is not found either in the final selection list approved by the Chairman of the DRB or the list communicated by the DRB to the circle Deputy Registrar of Cooperative Societies Office, Myladuthurai.

(viii) The selection of the petitioner is not a genuine one and consequently, the appointment order issued to the petitioner is also not a genuine one.

For the reasons stated above and based on the above information gathered from the available records, the claim of the petitioner is not a genuine one. Accordingly, his claim for posting as salesman cannot be considered. Therefore, the same may kindly be rejected.

Further, it is submitted for the reasons narrated in para 5.3 (i), appropriate action is contemplated to terminate the services of Tmt.D.Chitra (MalaBoothonur) Thiru.R.Balakrishnan (MalaBoothonur) and Thiru.K.Ravichandran (Theralunthur), whose names did not figure in the DRB selection list and also to initiate severe disciplinary action against the persons who are responsible for issuing appointment orders to these persons."

6. According to the report of the Registrar of Co-operative Societies, the selection proceedings of the petitioner is not genuine and appropriate action is contemplated to terminate the services of other three persons, whose names did not figure in the DRB selection list, and also to initiate severe disciplinary action against the persons, who are responsible for issuing appointment orders to these persons. Nature of report itself prima facie clearly indicates that the selection proceedings of the petitioner as salesman in the Cooperative Department is not genuine and therefore, the Registrar has to initiate action against those persons, who are responsible for issuing illegal selection list as well as appointment orders in the Department. It is seen from the report that in the light of the illegal selection and appointment orders, three persons are still working in the Department. The responsible officer in-charge for issuing such selection and illegal appointment orders is being retired. Therefore, the relief as prayed in the Writ Petition cannot be granted.

7. However, before parting with the order, considering the facts and circumstances of the case and also the report submitted by the Registrar, to meet the ends of justice, this Court is of the view that the report submitted by the Registrar is very serious in nature, especially in the Cooperative Societies, appointments have been made, colluding with the officials, which would destroy the object of the Society. Therefore, this Court, considering the report of the Registrar of Cooperative Societies and taking this matter very seriously, directs the Registrar of Cooperative Societies to initiate appropriate disciplinary proceedings as well as criminal proceedings against the officials of the Department, who are responsible for issuing such selection list and illegal appointment orders. The Registrar of Cooperative Societies is also directed to conduct further enquiry about the selection list and the appointments made during the tenure of the aforesaid Joint Registrar of Cooperative Societies, viz.,

N.Chandrasekaran, as expeditiously as possible and submit a report before this Court, within a period of six months from the date of receipt of a copy of this order.

8. The Writ Petition is dismissed with the above direction. No costs. Post this Writ Petition during the first week of November 2017, for filing a report by the Registrar of Cooperative Societies.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of Cooperative Societies
Tamil Nadu.
2. The Joint Registrar of Cooperative Societies
Nagapattinam Region, Nagapattinam
Nagapattinam District.
3. The President
ZB 57, Thiruvallangadu Primary Agricultural
Cooperative Credit Society
Thiruvallangadu
Kutthalam Taluk
Nagapattinam District.
4. The Section Officer,
Writ Section, High Court,
Madras.

+1cc to Mr.Shanmugasundaram, Advocate, S.R.No.21706
+1cc to Mr.Prasasam, Advocate, S.R.No.22278
+1cc to the Government Pleader, S.R.No.22692

W.P.No.25528 of 2013

VSN(CO)
RS(19/04/2017)