

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.33516 of 2006

P.Selvakumar

... Petitioner

Vs.

1. The Special Officer/Joint Registrar
Erode District Consumer's Cooperative
Whole sale stores Ltd.,
Erode.

2. The Enquiry Officer/Joint Registrar (Retired),
75 State Bank Nagar,
Moolapalayam, Erode. ... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the charge memo dated 26.05.2006 in proceeding No.Nil, initiated against the petitioner herein on the file of the 1st respondent and quash the same.

For Petitioner : Mr.B.Ramamoorthy

For Respondent 1 : Mr.P.Anbarasan

For Respondent 2 : Mr.S.Gunasekaran

Additional Government Pleader

O R D E R

Heard Mr.B.Ramamoorthy, learned counsel for the petitioner and Mr.P.Anbarasan, learned counsel appearing for the first respondent and Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the second respondent.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the charge memo dated 26.05.2006 in proceeding No.Nil, initiated against the petitioner herein on the file of the 1st respondent and quash the same"

3. The case of the petitioner is as follows:-

This writ petition is filed against the charge memo issued by the first respondent-Cooperative Society. When the matter was taken up for hearing, the learned counsel for the respondent would submit that the writ itself is not maintainable. In view of the Larger Bench decision of this Court, reported in 2006 (4) CTC 689 in the case of K.Marappan Vs. The Deputy Registrar of Cooperative Societies, Namakkal Circle, Namakkal.

4. According to the decision of the Larger Bench, the Cooperative Societies are not amendable to the writ jurisdiction. The society cannot be characterized as a state in the meaning of Article 12 of the Constitution of India and only in special circumstances, this Court can exercise extraordinary power under Article 226 of the Constitution of India.

5. In the instant case, no such special circumstances exist for this Court to exercise its special power. Since, the petitioner is before this Court challenging the charge sheet against him for certain act of misconduct. This Court does not think that it is a fit case that the writ petition should be entertained.

6. In the aforesaid reasons, the writ petition is dismissed as not maintainable. However, it is open to the respondents to go ahead with the charge memorandum and complete the disciplinary action initiated against the petitioner as early as possible. Considering the fact, the petitioner is already retired from service on attaining the age of superannuation on 31.07.2017. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

AT

To

1. The Special Officer/Joint Registrar,
Erode District Consumer's Cooperative
Whole sale stores Ltd.,
Erode.

2. The Enquiry Officer/Joint Registrar (Retired)
75, State Bank Nagar,
Moolapalayam, Erode.

+ 1 cc to Mr.B.Ramamoorthy, Advocate,SR.82782

+ 1 cc to Mr.P.Anbarasan Advocate,SR.82764

+ 1 cc to The Govt.Pleader, SR.83656

W.P.No.33516 of 2006

KS (CO)
NR 15/12/2017



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