

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.10.2017

CORAM

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

W.P. No.23522 of 2004 and

W.P. M.P.No. 28486 of 2004

R. Murugan

...Petitioner

Vs

1 The Special Officer,
AHDP 32-Kondampatty Sheep,
Breeding Co-Operative Society,
Kondampatty, Marampatty P.O.
Uthangarai T.K. Dharmapuri District.

2 The Joint Director
The Animal Husbandary Department
Dharmapuri District.

3 The Assistant Director,
The Animal Husbandary Department
Dharmapuri District.

....Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings made in Na.Ka.No.2259/E/2003 dated 05.12.2003 issued by the first respondent and quash the same and forbear the respondents from terminating the petitioner from service or recovery of salary.

For Petitioner : Mr. G. Ethirajulu

For Respondents: Mr. P.S. Siva Shanmugasundaram

(For R1)

: Mr. K. Thangapandi (R2 & R3)

O R D E R

The show cause notice dated 05.12.2003 issued by the 1st respondent is under challenge in this writ petition.

2. On perusal of the memo issued by the 1st respondent, this Court is of the opinion that the notice was issued directing the writ petitioner to submit his explanation within a period of three days from the date of receipt of the memo. The reasons

stated for issuance of notice is that the writ petitioner was granted promotion in violation of the Co-operative societies Act and Rules and further revision of scale pay was also irregularly granted to the writ petitioner. Thus, the memo was issued directing the writ petitioner to submit his explanation. Instead of submitting his explanation/Objection, the writ petitioner has moved this writ petition under Article 226 of the Constitutional of India.

3. This Court is of the firm opinion that no writ petition can be entertained against the show cause notice and the writ proceedings can be entertained if any memo/show cause notice is issued by an incompetent authority having no jurisdiction, if any allegation of mala-fides raised or if the memo was issued in violation of statutory rules. Even in the case of raising the allegation of mala-fides, the authority, against whom such an allegation is raised, as to be impleaded as a party in the Writ proceedings in his personal capacity. In the absence in any one of the legal grounds, no writ petition can be entertained against the memo/show cause notice.

4. Further, the show cause notice impugned in this writ petition was issued by the special officer of the first respondent of the Co-operative society. A Co-operative society is not a state with the meaning of Article 12 of the Constitution of India and No writ proceedings can be entertained against the Co-operative society and the Employees working in the Co-operative societies have to exhaust the remedies available under the provisions of the Co-operative societies Act. The legal principles in this regard was settled by the larger bench of this Court in the case of "Marappan and others Vs. Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689."

5. Thus, the Writ petitioner is at liberty to approach the Competent authority under the Provisions of the Tamil Nadu Co-operative Societies Act. This Court is not inclined to consider the grounds and merits raised in this writ petition in this regard. Accordingly, the Writ petition stands dismissed as not maintainable. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1 The Special Officer,
AHDP 32-Kondampatty Sheep,
Breeding Co-Operative Society,
Kondampatty, Marampatty P.O.
Uthangarai T.K.
Dharmapuri District.
- 2 The Joint Director
The Animal Husbandary Department
Dharmapuri District.
- 3 The Assistant Director,
The Animal Husbandary Department
Dharmapuri District.

+1 Cc to Mr. G. Ethirajulu, advocate sr 74286.

W.P. No.23522 of 2004

SP(07/11/2017)



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