



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.529 of 2017
and
C.M.P. (MD) No.4493 of 2017

Sholavandan Co-operative Primary Agricultural
and Rural Development Bank Limited
Sholavandan, Madurai District
(Through the Special Officer, now by the President)
... Appellant/Petitioner
-vs-

1. The Deputy Commissioner of Labour
Kootturavu Maligai
Indra Nagar, Anna Nagar East
Madurai - 20

2. K.Murugan ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside
the order dated 10.02.2015 in W.P.(MD).No.7741 of 2009, on the
file of this Court.

Prayer in WP(MD). 7741/ 2009 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue a Writ of CERTIORARI calling
for the records relating to the impugned order of the Respondent-
1, in his file TNSE No: 47/01 and QUASH the order Dt: 15.10.01.

For Appellant : Mr.G.Muruggan

For Respondents : Mr.N.Pragalathan for R2

J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

Heard Mr.G.Muruggan, learned counsel appearing for the
appellant and Mr.N.Pragalathan, learned counsel appearing for the
second respondent.
<https://hcservices.ecourts.gov.in/hcservices/>



2. This writ appeal by Sholavandan Co-operative Primary Agricultural and Rural Development Bank Limited is directed against the common order, dated 10.02.2015, in W.P. (MD) Nos.7741, 5434 and 9717 of 2009.

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3. In W.P. (MD) No.7741 of 2009, the appellant / writ petitioner - Cooperative Society challenged the order, dated 15.10.2001, passed by the Deputy Commissioner of Labour, under the provisions of Tamil Nadu Shops and Establishments Act, 1947, wherein the Writ Court directed the second respondent to be re-initiated in service.

4. The other writ petition, namely in W.P. (MD) No.5434 of 2009, was filed by the second respondent to direct the appellant - Cooperative Society to re-initiate him in service as a Supervisor.

5. The Writ Court, after considering the matter and taking note of the legal position, held that without ascertaining the cadre strength, the Deputy Commissioner of Labour could not have directed the absorption of the second respondent herein as a Supervisor in the appellant - Cooperative Society and therefore, allowed the writ petition in W.P.(MD) No.7741 of 2009. However, taking note of the fact that the second respondent herein was appointed in the year 1999 and was serving till 07.02.2001, an observation was made to the effect that if any vacancy is available, it is open to the second respondent herein to submit a representation to the appellant - Cooperative Society and the Registrar of Cooperative Societies, who were directed to consider the same and pass orders on merits and in accordance with law.

6. The learned counsel appearing for the appellant - Cooperative Society would submit that once the Court came to the conclusion that the Deputy Commissioner of Labour was not justified in passing the order directing absorption of the second respondent in service as his very appointment itself was illegal, no further direction could have been issued by the Writ Court giving liberty to the second respondent to submit a representation.

7. In our view, the appellant - Cooperative Society could not have been aggrieved by the direction issued by the Writ Court, because the direction issued is only to consider the second respondent's representation either by the appellant - Cooperative Society or by the Registrar of Cooperative Societies, on merits and in accordance with law, within a time frame. Presumably, such a direction would be issued owing to the fact that the appointment of the second respondent was held to be illegal on a technical ground that the procedure contemplated under Rule 149 of the Tamil Nadu Cooperative Societies Rules was not followed. Thus, we find



that there is no error in the direction issued by the Writ Court in Paragraph 34 of its order. Hence, we are not inclined to entertain the present writ appeal.

8. In the result, the writ appeal is dismissed with a direction to the appellant - Cooperative Society to comply with the directions issued by the Writ Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

The Deputy Commissioner of Labour,
Kootturavu Maligai,
Indra Nagar, Anna Nagar East,
Madurai - 20.

+1cc to Mr.R.Saravanan, Advocate Sr.No.58046

ia/krk

vb/skn/sar1/07.06.2017/3p/3c

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