



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.01.2017

CORAM :

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P (MD) No. 24892 of 2016

and

WMP (MD) Nos. 18001 and 18002 of 2016 and 792 of 2017

M. Nagarasu

... Petitioner

vs.

1) The Joint Registrar of Co-operative Societies,
Collectorate Campus, Ramanathapuram,
Ramanathapuram District.

2) The Deputy Registrar of Co-operative Societies,
Paramakudi, Ramanathapuram District.

3) The President,
Q1237, Ariyanendal Primary Agricultural
Co-operative Credit Society,
Ariyanenthal, Paramakudi,
Ramanathapuram District.

4) The Enquiry Officer,
Q1237, Ariyanendal Primary Agricultural
Co-operative Credit Society,
Ariyanenthal, Paramakudi,
Ramanathapuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, calling for the records of the impugned order passed by the 3rd respondent dated 09.12.2016 and quash the same and direct the respondents to pay subsistence allowance and consequently to reinstate the petitioner with all consequential and monetary benefits.

For Petitioner : Mr. C. G. Pethanraj
For R1 & R2 : Mr. K. P. Krishnadass, Government Advocate
For R3 & R4 : Mr. J. Gunaseelan Muthiah,

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorari Mandamus, calling for the records of the impugned order passed by the 3rd respondent dated 09.12.2016 and quash the



same and direct the respondents to pay subsistence allowance and consequently to reinstate the petitioner with all consequential and monetary benefits.

2. The petitioner who is working under the respondent, has been suspended on 20.10.2015 and charge memo has been issued on 14.09.2016 alleging misappropriation of funds. Thereafter, the 4th respondent has been appointed as the enquiry officer and detailed enquiry has been conducted on various dates. After detailed enquiry the, enquiry officer came to the conclusion that the charges levelled against the petitioner are proved and submitted a report on 07.12.2016. Based on the report of the enquiry officer, a second show cause notice has been issued on 09.12.2016.

3. Though it has been contended by the petitioner that the enquiry officer's report has not been served upon him, the impugned second show cause notice refers to the enquiry officer's report dated 07.12.2016. In the reply of the 3rd respondent received by the petitioner on 01.12.2016, it has been stated that all the documents have been taken by the enquiry officer for conducting enquiry under Section 81.

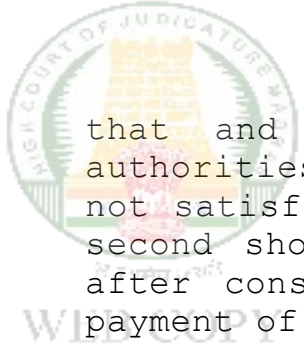
4. After detailed arguments, learned counsel for the respondents would submit that the writ petition is not maintainable against the respondents 3 and 4, as the relief sought for is against the Co-operative Society.

5. Heard both sides.

6. The learned counsel for the respondents 3 and 4 would submit that the impugned second show cause notice may be treated as a notice calling for the explanation of the petitioner to the enquiry officer's report and after receipt of the explanation from the petitioner, if the disciplinary authority is not satisfied with the same, another notice will be issued which can be treated as second show cause notice.

7. Learned Government Advocate appearing for the respondents 1 and 2 would submit that even though the writ is not maintainable against the Co-operative Society, the claim of the petitioner for payment of subsistence allowance would be considered, if the petitioner is otherwise eligible.

8. At the verge of the arguments, it is submitted by the respondents that the writ is not maintainable. However, having delivered a detailed order, without rendering any finding on the maintainability of the writ petition, this Court is inclined to dispose of the writ petition directing the respondents 3 and 4 to accept the explanation of the petitioner that may be submitted on the enquiry officer's report, scrutinise the same and decide on



that and communicate the same to the petitioner. If the authorities concur with the findings of the enquiry officer and not satisfied with the explanation of the petitioner, may issue a second show cause notice and then pass fresh orders on merits, after considering the request of the petitioner with regard to payment of subsistence allowance if applicable.

With the above direction, this writ petition is disposed of. No costs. The interim order already granted is vacated. Consequently, WMP(MD)Nos.18001 and 18002 of 2016 and 792 of 2017 are closed.

Sd/-

Assistant Registrar[RTI]

/True copy/

Sub Assistant Registrar

To

1)The Joint Registrar of Co-operative Societies,
Collectorate Campus, Ramanathapuram,
Ramanathapuram District.

2)The Deputy Registrar of Co-operative Societies,
Paramakudi, Ramanathapuram District.

3)The President,
Q1237, Ariyanendal Primary Agricultural
Co-operative Credit Society,
Ariyanenthal, Paramakudi,
Ramanathapuram District.

4)The Enquiry Officer,
Q1237, Ariyanendal Primary Agricultural
Co-operative Credit Society,
Ariyanenthal, Paramakudi,
Ramanathapuram District.

+1cc to Mr.J.Gunaseelan Muthaiah,Advocate,SR.3682

+1cc to Special Government Pleader,SR.3794

+1cc to Mr.R.Saravanan,Advocate,Sr.4190

NBI

KK-JM-03.02.2017-3P-5C

W.P (MD) No.24892 of 2016
23.01.2017