

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.03.2018
CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.1812 and 1813 of 2017
and
C.M.P.Nos.22678 of 2017, 2469 of 2018,
22679 & 22680 of 2017 and 2470 of 2018

The President,
M.D.576, East Annanagar Milk Consumer's Cooperative Society,
No.414, N Block, 21st Street,
Anna Nagar East, Chennai-600 102.

... Appellant in both the W.As.

-vs-

The Deputy Commissioner (Cooperation)/
Revision Authority,
O/o.the Commissioner for Milk Production &
Dairy Development, Chennai-51.

... 1st respondent in
W.A.No.1812/2017 and
2nd respondent in
W.A.No.1813/2017

R.Brabhanandan

... 2nd respondent in
W.A.No.1812/2017 and
1st respondent in
W.A.No.1813/2017

W.A.No.1812 of 2017 filed under Clause 15 of Letters Patent,
against the order passed by this Court in W.M.P.No.12632 of 2016
in W.P.No.14450 of 2016 dated 14.12.2017.

W.A.No.1813 of 2017 filed under Clause 15 of Letters Patent,
against the order passed by this Court in W.M.P.No.21193 of 2016
in W.P.No.14450 of 2016 dated 14.12.2017.

W.M.P.No.12632 of 2016:-

To stay all further proceedings pursuant to the impugned
order bearing RC.No.2385/ 15/M1 dt.29.03.2016 on the file of
the 1st Respondent pending writ petition No.14450 of 2016

W.M.P.No.21193 of 2016:-

To Vacate the Interim Order of Stay granted by this Honble
Court in WMP No.12632 of 2016 in WP No.14450 of 2016

W.P.No.14450 of 2016:-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court for the issuance of writ or certiorari calling for the records on the file of the 1st respondent culminating in the order bearing RC.No.2385/15/M1 dt.29.03.2016 and quash the same.

For appellant : Mr.Om Prakash, Sr.Counsel
for Mr.S.Siva Shanmugam

For respondents : Mr.L.P.Shanmugasundaram,
Spl.GP (Coop) for R1 in W.A.1812/2017
and R2 in W.A.1813/2017

Mr.M.Baskar for R2 in W.A.1812/2017
and R1 in W.A.1813/2017

COMMON JUDGMENT

(Delivered by RMT.TEEKAA RAMAN, J.)

These appeals are filed by the appellant-Society against the interim order vacating the stay already granted in W.M.P.No.12632 of 2016 in W.P.No.14450 of 2016 and also directing the authorities to reinstate the employee-Brabhanandan forthwith.

2.On account of certain allegations, one Brabhanandan who is the 2nd respondent in W.A.No.1812/2017 and 1st respondent in W.A.No.1813/2017, was issued with a charge memo. After conducting enquiry, Charge Nos.1, 2, 3, 4 and 6 were proved, Charge No.5 was not proved and Charge Nos.7 and 8 were partly proved. Hence, subsequently he was dismissed from service. Aggrieved by the same, he preferred a revision petition under Section 153 of the Tamil Nadu Cooperative Societies Act before the Deputy Commissioner (Cooperation), Chennai and the same was allowed. Against the said order, a writ petition was filed before this Court in W.P.No.14450 of 2016 by the Society and this Court granted stay of the order passed by the Revisional Authority by order dated 20.04.2016. Thereafter, on filing a petition for vacating the stay by the employee, this Court allowed the said vacate stay petition and directed the authorities to reinstate the employee-Brabhanandan forthwith, with the observation that the President, as per the bye-law, the President has no power to impose the major penalty of dismissal and aggrieved against order passed in the WMP, the President has filed the writ appeal in his personal capacity, without there being a Resolution by the Board. It has also been observed that the majority Directors of the Board have given a letter dated 10.06.2016 to the President to reinstate the employee and hence the continuance of interim stay is not desirable and the parties

are at liberty to adjudicate the legal issues at the time of final hearing of the writ petition.

3.The learned counsel for the employee has submitted that 8 Directors of the Society have signed to implement the order passed by the Revisional Authority, reinstating the employee.

4.Per contra, the learned senior counsel appearing for the appellant-Society has submitted that charges are very grave in nature and it is open to the employee to raise all the legal questions at the time of disposal of the main writ petition.

5.Considering the facts and circumstances of the case, this Court is of the considered opinion that the legal issues involved in this case have to be adjudicated at the time of final hearing of the writ petition. Hence, we hereby request the learned single Judge to take up the main writ petition for final disposal as early as possible. Till such time, status quo has to be maintained.

6.The writ appeals are disposed of accordingly. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KM

To

The Deputy Commissioner (Cooperation)/
Revision Authority,
O/o.the Commissioner for Milk Production &
Dairy Development, Chennai-51.

+1cc to Mr.S.Siva Shanmugam, Advocate, S.R.No.22195

+1cc to Mr.M.Baskar, Advocate, S.R.No.22436

+1cc to the Government Pleader, S.R.No.22323

W.A.Nos.1812 and 1813 of 2017 and
C.M.P.Nos.22678 of 2017, 2469 of 2018,
22679 & 22680 of 2017 and 2470 of 2018

NRL (CO)
CS/13/04/18