



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.363 of 2018
and
C.M.P. (MD) No.2195 of 2018

The President,
O.1654, Iyyaneri Primary Agricultural
Co-operative Credit Society Limited,
G.V.N.College Post, via Kovilapatti,
Thoothukudi District.

... Appellant

Vs.

1. S.Jeganathan
2. The Joint Registrar of Co-operative
Society, Thoothukudi,
Thoothukudi District.
3. The Deputy Registrar of Co-operative
Societies, Kovilpatti,
Thoothukudi District.

... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 12.01.2018 and passed in W.P.(MD) No.20055 of 2017.

Prayer in WP(MD)No.20055/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records of the 3rd respondent in his proceeding dated 16.10.2017 and quash the same as the same is passed without jurisdiction and consequently direct the respondents to permit the petitioner to continue his service with all monetary benefits.

For Appellants

: Mr.S.Pon Senthil Kumaran

For Respondent

: Mr.C.Ananth C. Rajesh for R1

Mr.D.Muruganandam, AGP for RR2&3

**JUDGMENT**

(Judgment of this Court was delivered by T.S.SIVAGNANAM, J.)

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Heard Mr.S.Pon Senthil Kumaran, learned counsel for the appellant and Mr.Ananth C. Rajesh, learned counsel for the first respondent and Mr.D.Muruganandam, learned counsel for the respondents 2 and 3.

2.The appellant is the third respondent in the writ petition and is aggrieved by the order passed in W.P.(MD) No.20055 of 2017 dated 12.01.2018 filed by the first respondent herein. The first respondent challenged the order passed by the appellant dated 16.10.2017 placing the first respondent under suspension. The ground on which the order of suspension was challenged is by contending that it is without jurisdiction as the appellant in the capacity of the President of the Society unilaterally passed the order of suspension without the approval of the elected Board. The above contention is canvassed before us by the learned counsel for the first respondent and it appears that before the Writ Court, the first respondent/writ petitioner placed reliance on the instructions given by the Registrar of Societies dated 09.02.2016 in the matter of initiation of disciplinary action against the employee of the Society.

3.In any event, if a bye-law has been framed for the Society, the special bye-law stipulated certain specific conditions, then the special bye-law will prevail over by the circular issued by the Registrar. In any event, the President of the Society could not have unilaterally acted , but, should have taken the approval of the elected Board. Such alone will be inconsonance with the bye-laws of the society. Therefore, though we agree with the ultimate result of the writ petition in being allowed, we observe that the effect of the circular instruction of the Registrar cannot be held to be mandatory, but, what would prevail is the special bye-law of a particular society.

4.The learned counsel for the appellant submitted that as of now, elections have been commenced to the society and as per the Code of Conduct, the first respondent, the Secretary of the Society is the Executive Officer. Considering the grievances expressed against the President of the Society, we direct the third respondent viz., the Deputy Registrar of Co-operative Society, Kovilpatti to conduct an inspection of the Society and its accounts and proceed in accordance with law.



5. With the above observation, the order passed in the writ petition is confirmed. The writ appeal is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Registrar of Co-operative
Society, Thoothukudi,
Thoothukudi District.

2. The Deputy Registrar of Co-operative
Societies, Kovilpatti,
Thoothukudi District.

+ 1 CC TO Mr.S.PON SENTHIL KUMARAN, ADVOCATE IN SR No. 55437
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 55549
+ 1 CC TO Mr.ANANTH C.RAJESH, ADVOCATE IN SR No. 55328

ARUL

TE/SKN-RSK/SAR-1 : 26/03/2018 : 3P/6C

W.A. (MD) .No.363 of 2018 and
C.M.P. (MD) No.2195 of 2018
14.03.2018