



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.02.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.1465 of 2018
and
W.M.P. (MD) .No.1532 of 2018

N.Maria Devadhasan

...Petitioner

Vs.

1. The Joint Registrar,
Co-operative Societies,
Nagercoil,
Kanyakumari District.

2. The President,
Thickanamcode Agricultural Primary
Co-operative Credit Society Limited, No.Y.201,
Thickanamcode Post,
Kanyakumari District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the Suspension Order of the second respondent in Ref.No.Nil, dated 01.09.2017 and quash the same.

For Petitioner : Mr.A.Rajkumar Sen

For Respondents : Mrs.S.Srimathy for R1
Special Government Pleader
: Mr.S.Kumar for R2

ORDER

Heard the learned counsel on either side.

2.The petitioner is employed in the second respondent/Society. The petitioner was suspended by order dated 01.09.2017 passed by the second respondent herein. The same is questioned on two grounds:-

(i)Firstly, the second respondent has no jurisdiction to pass the impugned order and as per Section 76 of the Tamil Nadu Co-operative Societies Act, 1983, only, the Registrar of Co-operative



Societies, can direct the second respondent to suspend the petitioner.

(ii) Secondly, there is non specification of the period, for which suspension was to be enforced and that the impugned order runs counter to the decision of this Court reported in **(2003) 4 CTC 449-(M.Kalidas and another Vs. The Registrar of Co-operative Societies, NVN Maligai, Kilpauk, Chennai and five others)**.

3.Both the grounds urged by the learned counsel for the petitioner are un-sustainable. It is true that as per Section 76 (2) of the Tamil Nadu Co-operative Societies Act, 1983, on receipt of direction from the Registrar, the competent authority shall place the paid officer or servant of society under suspension forthwith. It does not mean without such direction from the Registrar, the employee cannot be suspended. In the present case, the Board of the Second respondent / Society had passed resolutions for suspension of the petitioner and pursuant to the said resolutions the impugned order came to be passed. Therefore, the impugned order has been passed by the authority, who is very much having the jurisdiction to suspend the petitioner.

4.The learned counsel appearing for the petitioner placed reliance on **(2003) 4 CTC 449-(M.Kalidas and another Vs. The Registrar of Co-operative Societies, NVN Maligai, Kilpauk, Chennai and five others)** and **(2004) 4 MLJ 662-The Special officer, Vellakovil primary Agricultural Co-operative Bank Vellakovil, Erode District Vs. C.Poongodi and others)**. Both these decisions have been overruled by the full Bench of this Court in the decision reported in **2006 4 CTC 444**. Since the decision relied upon by the petitioner has since been over ruled by the Full Bench of this Court, the said contention also deserves to be rejected. There is absolutely no merit in the Writ Petition. It stands dismissed. At this stage, the learned counsel appearing for the petitioner made a submission that the petitioner cannot be kept under suspension for indefinite period. He therefore sought a speedy conclusion of the proceedings initiated against the petitioner.

5.The learned counsel for the Society would point out that charge memo is yet to be issued. It is made clear that the disciplinary action shall be initiated and concluded against the petitioner within a period of six months from the date of receipt of a copy of this order.

6.With these observations and directions, this Writ Petition



stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/True Copy/

Sub Assistant Registrar

To

The Joint Registrar,
Co-operative Societies, Nagercoil,
Kanyakumari District.

- + 1 cc TO Mr.S.Kumar , Advocate in SR No. 47471
- + 1 cc TO Mr.A.Rajkumar Sen , Advocate in SR No. 47316
- + 1 cc TO The Special Government Pleader in SR No. 47437

tsg

AE/SV MMS/SAR1/14.05.2018/3P/5C

ORDER MADE IN
W.P. (MD) .No.1465 of 2018
08.02.2018