



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.02.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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W.P. (MD) .No.215 of 2018
and
W.M.P. (MD) .No.216 of 2018

C.Iruthayaraj

... Petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
Nehruji Nagar, Dindigul.
 2. The Managing Director,
Q-1216, Dindigul Agricultural Producers C--operative
Marketing Society-1, Sellandiamman Kovil 1st Street,
Dindigul-624001.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, against the charge memo dated 10.05.2017 and the final orders dated 05.10.2017 passed by the second respondent against the petitioner in the nature of writ calling for the records on the file of the second respondent and quash the same.

For Petitioner	: Mr.S.Arivalagan
For Respondents	: Mr.K.Saravanan for R1 Government Advocate : Mr.P.Shanmugaraja Sethupathi for R2

ORDER

By consent of both parties, the main Writ Petition itself is taken up for final disposal at the stage of admission.

2.Heard Mr.S.Arivalagan, learned counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate, who takes notice for the first respondent and Mr.P.Shanmugaraja Sethupathi, learned counsel, who takes notice for the second respondent.

3.The petitioner was working as Accountant/Manager in the second respondent / Society. He was issued with a charge memo dated 10.05.2017. Domestic enquiry was conducted. The petitioner herein was no doubt given reasonable opportunity. But, then the final order of punishment reverting the petitioner to the post of Godown

Keeper, came to be passed by the Managing Director.

4. It is the contention of the learned counsel appearing for the petitioner that as per the Special by-laws, it is only the President of the Society who is competent to impose the punishment in question. The Managing Director is not authorised to impose such punishment. Therefore, the learned counsel for the petitioner contended that the punishment imposed on him is without jurisdiction.

5. Per contra, the learned Standing counsel appearing for the Society would point out that as per Rule 146 of the Tamil Nadu Co-operative Societies Rules, 1988, the Managing Director or the Chief Executive Officer of the Society can pass orders of Punishment. He also would point out that the petitioner has challenged only the charge memo on the consequential orders. He has failed to question the order of punishment as such. Therefore, he would contend that the Writ Petition is technically not maintainable. There is some force in the stand taken by the learned Standing Counsel for the second respondent.

6. However, this Court is of the view that the matter need not be disposed of on such technical aspect. It is true that Rule 146 of the Tamil Nadu Co-operative Societies Rules, 1988, enables the Managing Director or the Chief Executive Officer to award any punishment on any member of the establishment, as specified in the Rules. But, this Court is of the view that the issue will have to be determined with reference to Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988. The said Rule mandates that every Society shall adopt, with the prior approval of the Registrar, Special by-law by covering the service conditions of its employees. Special by-law shall, *inter alia*, prescribe the following:-

"(i) Cadre strength and classification of various categories of posts and the qualifications required thereof for each such posts.

(ii) The method of recruitment for each such posts.

(iii) The Scale of Pay and allowances for each such posts.

(iv) Conditions of probation for each such posts,

(v) Duties and responsibilities for each such posts

(vi) Leave of various admissible and, the conditions thereto for each such posts.

(vii) The penalties that may be imposed upon, the procedure for taking disciplinary action and inflicting various kinds of punishments on an employee holding each such post and the authority competent to entertain and dispose of appeal made



competent to entertain and dispose of appeal made against an order of punishment imposed by the competent authority on a disciplinary proceedings.)

(viii) Conditions relating to acquisition and disposal of movable and immovable property."

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7.As per the provision in the Special by-law, it is only the president of Society, who can impose the order of punishment. In the present case, the President had not imposed the order of punishment.

8.This Court is inclined to quash the punishment order dated 05.10.2017, passed by the second respondent herein. Accordingly, the impugned order of Punishment dated 05.10.2017 alone is quashed. The matter is remitted to the competent authority namely, the President of the second respondent/Society to pass orders afresh on merits and in accordance with law. The President of the Society, before passing such an order, will give an opportunity of personal hearing to the petitioner. It is made clear that the petitioner shall not use this order as a leverage to drag on the proceedings. If the petitioner does not co-operate in the personal hearing, it will be open to the concerned competent authority to pass final orders in accordance with law. It is made clear that the order of punishment alone is quashed.

9.The Writ Petition is allowed to the extent indicated above. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Deputy Registrar of Co-operative Societies,
Nehruji Nagar, Dindigul.

+1cc to Mr.S.Arivalagan, Advocate in SR. No.51897

+1cc to Mr.P.Shanmugaraja Sethupathi, Advocate in SR. No.51853

+1cc to SPECIAL GOVERNMENT PLEADER, in SR. No.52333

tsg

MK/SKN RSK/SAR-2/08.03.2018/3P/5C

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