



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Eleventh day of July Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR

WMP(MD) No.13536 of 2018

IN

WP(MD) No.14973 of 2018

P.ANBAZHAKAN

... PETITIONER

Vs

1 DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES,
NAGERCOIL, KANYAKUMARI.

2 THE MANAGEMENT
Y-220 MARAVAN KUDIYIRUPPU PRIMARY AGRICULTURAL
CO - OPERATIVE CREDIT SOCIETY,
MARAVAN KUDIYIRUPPU, NAGERCOIL,
KANYAKUMARI
REPRESENTED BY ITS
SPECIAL OFFICER.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an Ad Interim Stay of all further proceedings of the impugned notice issued by the 1st Respondent in Na.Ka.796/2018/Sa Pa dated 04.06.2018 (received on 22.06.18) pending disposal of the present writ Petition.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.M.JERIN MATHEW, Advocate for the petitioner and of MR.K.SARAVANAN, Government Advocate, on behalf of the Respondents, while admitting the WP., the court made the following order:-

With regard to two reasons, the impugned show cause notice has been issued. First one is that there had been an alleged loss to the respondent Society for a sum of Rs.3,89,830/- [Rupees Three Lakhs Eighty Nine Thousand Eight Hundred and Thirty only]. The second charge is that the petitioner received higher salary between 01.12.2013 and 30.11.2017, without any legal sanction.

2.In response to the said charges, as has been mentioned in the impugned show cause notice, learned Counsel appearing for the petitioner would submit that, the entire amount of Rs.3,89,830/- has



been paid by the petitioner as early as on 12.12.2017 and in this regard, the photocopy of the receipt has been produced before this Court. Therefore, the question of issuing any surcharge proceedings by way of impugned show cause notice does not arise.

3. Insofar as the second charge is concerned, the learned Counsel for the petitioner submits that, the petitioner has been working temporarily for more than two calendar years and under the provisions of Tamil Nadu Industrial Establishment Conferment of Permanent Status Act, 1981, the authority concerned also passed a favourable order in favour of the petitioner to confer such status to the petitioner, as against which the respondent Society filed a writ petition in W.P.(MD)No.12183 of 2014 and the said writ petition was dismissed by this Court by order dated 10.04.2017, whereby, the order passed by the authority to give the status of conferment of permanency to the petitioner has been confirmed.

4. It is the case of the petitioner that only pursuant to these orders issued by the authorities as confirmed in the said writ petition, the petitioner had been made permanent or absorbed in the said position, where he has been working and according to the legal entitlement, he has been paid by the Society and therefore, in that regard, the petitioner has nothing to do with the misappropriation. Therefore, the question of recovery does not arise by issuing show cause notice under 87 proceedings.

5. Normally, this Court will not interfere in issuance of show cause notices, but in the case on hand, both the grounds, *prima facie* may not be justifiable, atleast in view of the aforesaid factual matrix. Because of these peculiar reasons, this Court has no hesitation to interfere with the impugned show cause notice.

6. Accordingly, there shall be an order of Ad-Interim Stay of the impugned order issued by the first respondent in Na.KA.796/2018/Sa Pa dated 04.06.2018. Notice.

sd/-
11/07/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES,
<https://hcservices.ecourts.gov.in/hcservices/>
NAGERCOIL,
KANYAKUMARI.



2 THE SPECIAL OFFICER,
MANAGEMENT Y-220 MARAVAN KUDIYIRUPPU PRIMARY AGRICULTURAL
CO - OPERATIVE CREDIT SOCIETY,
MARAVAN KUDIYIRUPPU, NAGERCOIL,
KANYAKUMARI

+1. C.C. to M/S.M.E.ILANGO Advocate SR.No.12756

MR

JAM/24/07/2018/ RR /SAR 4/3P-4C

ORDER

IN

WMP (MD) No.13536 of 2018

IN

WP (MD) No.14973 of 2018

Date :11/07/2018