



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.20226 of 2017

Y-37, Muhilanvilai Primary Agricultural
Co-operative Credit Society,
represented by its President,
Sivanathan

... Petitioner

Vs.

1.P.Baskar

2.Inspector of Labour,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for records in Na.Ka.No.2087/2014 dated 21.08.2015 on the file of the second respondent and quash the same as illegal.

For petitioner : Mr. S.Kumar

For R1 : Mr.M.Jerin Mathew
for M.E.Ilango

For R2 : Mrs.S.Srimathy
Special Government Pleader

O R D E R

Heard the learned counsel on either side.

2. The first respondent herein has been working as a Jewel Appraiser in the writ petitioner's Co-operative society. Claiming the status of permanency, the first respondent moved the Inspector of Labour, Nagercoil. The second respondent herein invoking his powers under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981, granted relief to the first respondent herein. The same is questioned in this writ petition.



3. Heard either side.

4. It is seen that there is no post of Jewel Appraiser in the cadre of the writ petitioner. Only in respect of a post falling within the cadre strength, granting of the relief of regularization or permanency is possible. There is no such post of Jewel Appraiser in the petitioner Co-operative society. The second respondent should not have assumed the jurisdiction to confer the status of permanency. The issue on hand is clearly covered by the Full Bench judgment reported in (2007) 6 MLJ 455 [Radhakrishnan v. The Deputy Registrar of Co-operative Societies].

5. That apart, as rightly pointed out by the management/ writ petitioner, the Jewel Appraisers cannot be construed as employees. They work primarily on commission basis for the job done. They are not occupying any post as such. Therefore the order impugned in this writ petition is quashed. The writ petition is allowed. At this stage, the learned counsel appearing on behalf of the first respondent submits that the writ petitioner has given a proposal to the Joint Registrar, Co-operative Society for appointing the first respondent as a Clerk cum Jewel Appraiser. The Joint Registrar of Co-operative society, Nagercoil region, is directed to take decision thereon within a period of six weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Labour,
Nagercoil,
Kanyakumari District.

2. The Joint Registrar of Co-operative society,
Nagercoil region,
Nagercoil.

+1CC to Mr.S.Kumar, Advocate, SR.No. 55817

+1CC to the Special Government Pleader SR.No.55987

ORDER MADE IN
W.P. (MD) No.20226 of 2017
15.03.2018

pnn

<https://hcservices.ecourts.gov.in/hcservices/>
AM/RR/SAR 2/27.03.2018/2P/5C