



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.6813 of 2013

WEB COPY

P.Pandeeswaran

... Petitioner

Vs.

1.The Special Officer,
Co-operative Marketing Society,
Usilampatti.

2.The Deputy Registrar,
Madurai Circle,
Co-operative Marketing Society,
Madurai.

3.The Joint Registrar,
Madurai Regional Office,
Co-operative Marketing Society,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the second respondent in Na.Ka.No.3651/2011/vi.sa. dated 14.09.2012 and quash the same as illegal and for consequential direction to provide employment to the petitioner to any suitable post on compassionate ground within a stipulated time.

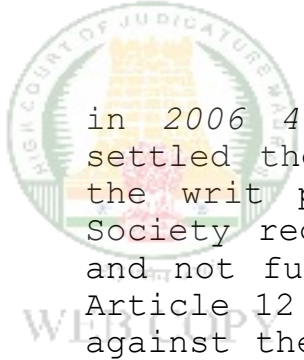
For Petitioner :Mr.C.Arul Vadivel @ Sekar

For Respondents :Mr.V.Muruganantham
Additional Government Pleader

ORDER

The internal communication between the Deputy Registrar, Co-operative Society, Usilampatti at Thirumangalam and the Special Officer, Co-operative Marketing Society, Usilampatti is under challenge in this writ petition.

2.This Court is of the opinion that the internal communication of the Deputy Registrar to the Special Officer of the Co-operative Society has been challenged only in order to maintain the writ petition and to circumvent to the legal principles settled by the honouable Larger Bench of the High Court, Madras, in the case of *The Inspector General of Prisons and others vs P.Marimuthu* reported



in 2006 4 CTC 689. The Honourable Larger Bench of this Court, settled the legal principles in respect of the maintainability of the writ petition against the Co-operative Society. Co-operative Society registered under the Tamil Nadu Co-operative Societies Act and not funded by the State, is not a State within the meaning of Article 12 of the Constitution of India. No writ can be entertained against the Co-operative Society unless if any statutory violations are found.

3.The remedy available to the employees of the Co-operative society is to prefer a revision under Section 153 of the Tamil Nadu Cooperative Societies Act. In other words, without exonerating the remedy available under Section 153 of the Act, no writ petition can be entertained under Article 226 of Constitution of India. The impugned order being an internal communication between the Deputy Registrar and the Special Officer, cannot stand in the stream of this Court in the present writ petition. Even the grievance in this regard can be redressed by the writ petitioner by way of revision under Section 153 of Co-operative Societies Act.

4.The learned Counsel for the writ petitioner brought to the notice of this Court that certain writ petitions were entertained in earlier occasions. This Court has to consider and bound by the legal principles settled by the Honourable Larger Bench of the High Court, Madras, cited supra. Thus the writ petitioner has to approach the competent authority under the provisions of the Act by challenging the internal communication issued by the Deputy Registrar and hence, the writ petition cannot be maintained.

5.The claim of the writ petitioner is for compassionate appointment, the father of the writ petitioner late Sri.V.Baluchamy, was employed as an Office Assistant in the Co-operative Marketing Society and passed away on 04.05.2001 while he was in service. The first respondent being a Co-operative society has to consider the case of the writ petitioner in accordance with the terms and conditions of the scheme of the compassionate appointment. However there is no such scheme available as far as Co-operative Societies are concerned. Then it is to be properly communicated to the writ petitioner. In the case on hand, the learned Counsel for the writ petitioner states that the case of the writ petitioner was already recommended by the authorities. Such being the factum, it is left open to the writ petitioner to approach the competent authority under the provisions of Tamil Nadu Co-operative Societies Act, to redress the grievances. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(Protocol)

/True copy/

Sub Assistant Registrar



To

1.The Special Officer,
Co-operative Marketing Society,
Usilampatti.

2.The Deputy Registrar,
Madurai Circle,
Co-operative Marketing Society,
Madurai.

3.The Joint Registrar,
Madurai Regional Office,
Co-operative Marketing Society,
Madurai.

+1cc to Mr.C.ARUL VADIVEL,Advocate,SR.40171

+1cc to M/S.Special Government Pleader,SR. 40236

W.P. (MD) No.6813 of 2013
03.01.2018

CMR/RMI

KK/GT/SAR 2/14.02.2018/ 3P- 6C/