

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03/04/2019

DATED : 16.04.2019

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.13296 of 2012

And

M.P.No. 2 of 2012

Shanmugarajan ... Petitioner

Versus

1. The Joint Registrar of Co-operative Societies
Chennai Region
No.92, St. Mary's Road
Raja Annamalaipuram
Chennai.
2. The Special Officer
Triplicane Urban Co-operative Society Ltd.,
No.156, Big Street,
Triplicane,
Chennai -5. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.No. 192/2012/E2 dated 26.04.2012 and quash the same.

For Petitioner :: Mr. C.Prakasam

For Respondents :: Mr. L.P.Shamuga Sundaram
Special Government Pleader

ORDER

The writ petitioner was appointed as Attender on 28.11.1985 in the second respondent, Triplicane Urban Co-operative Society Limited. He claimed that his Education Qualification Certificates were verified by the Appointment Committee. He further claimed that he had passed 7th standard but had discontinued 8th standard.

2. In the affidavit filed in support of the Writ Petition, the petitioner claimed that a charge memo dated 28.02.2012 after nearly 27 years of service, had been issued to him stating that the School Transfer Certificate in T.C.No. 674 of Perambakkam Government Higher Secondary School was a forged document. It was also stated in the charge memo that the qualification for the post of Attender was pass in 5th Standard and that the petitioner had given a false certificate that he had passed 8th Standard. The petitioner was called upon to give his explanation within 7 days. The petitioner claimed that subsequently, the second respondent also conducted a domestic enquiry. He further stated that he had participated in the enquiry proceedings and had given his explanation. He had clearly stated that since the basic qualification was only 5th Standard pass, there was no necessity for him to produce a bogus certificate claiming that he had passed 8th Standard. After receipt of enquiry report, the second respondent, namely, the Special Officer, Triplicane Urban Co-operative Society Limited., had issued a show cause notice in proceedings in Na.Ka.No. 192/2012, E2 dated 26.04.2012 calling upon the petitioner to give an explanation to the show cause notice within 7 days. The Writ Petition had been filed challenging the said show cause notice.

3. In the counter affidavit filed by the respondents, it had been stated that the petitioner had produced a bogus transfer certificate as if it had been issued by the Perambakkam Government Higher Secondary School. It was stated that pursuant to a domestic enquiry, in which the petitioner had also participated, the impugned order, which was only a show cause notice, had been issued to the petitioner. It was stated that the Writ Petition filed challenging the show cause notice was not maintainable.

4. Heard arguments advanced by Mr. C.Prakasam, learned counsel for the petitioner and Mr. L.P.Shamuga Sundaram, learned Special Government Pleader appearing for the respondents.

5. The writ petitioner had been appointed as Attender on 28.11.1985 in the Triplicane Urban Co-operative Society Ltd. The basic qualification required for appointment as Attender was 5th Standard pass. The petitioner had given a transfer certificate in T.C.No. 674.

6. It is the contention of the respondent that the said Transfer Certificate is a bogus certificate. Consequently, they conducted a domestic enquiry. In the domestic enquiry, it had been stated that the petitioner had participated and had stated

that there was no mala fide intention in producing a bogus certificate since the basic qualification for the post of Attender was only 5th Standard pass. However in the domestic enquiry, it was determined that he had actually produced a bogus certificate. Thereafter, the respondent had issued the impugned order dated 26.04.2012 in Na.Ka.No. 192/12/E2.

7. It is trite to point out that the respondent had issued show cause notice for which the petitioner should give his explanation and thereafter the respondents, if they deem it necessary, should conduct further enquiry in to the matter.

8. The writ petitioner had approached the Court at a very premature stage. The Writ Petition is not maintainable since it had challenged the show cause notice alone. Consequently, without going into the merits of the allegations raised against the petitioner or into the merits of the explanation of the petitioner, I hold that the Writ Petition is not maintainable and has to consequentially suffer an adverse order of dismissal. However, it is made clear that the writ petitioner is given the liberty to file his explanations to the show cause notice and thereafter, the respondent may take a decision in accordance with rules and in accordance with averments made in the show cause notice and in the explanation.

9. With these observations, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Registrar of Co-operative Societies
Chennai Region,
No.92, St. Mary's Road, Raja Annamalaipuram, Chennai.
2. The Special Officer
Triplicane Urban Co-operative Society Ltd.,
No.156, Big Street, Triplicane, Chennai -5.

Order made in
W.P.No.13296 of 2012
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CSL/22.04.2019