

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.10.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.20750 & 20751 of 2004

&

W.M.P.Nos.24983 & 24984 of 2004

The Trichy District Co-operative
Agro Service Society,
Thuraiyur Road,
Musiry, Trichy - 18.
Rep by its Special Officer.

...Petitioner in both WPs

..Vs..

1.K.Ponnusamy

2.S.Palaniandi

3.D.Kalaiselvi

4.M.Ravichandran

5.T.Ramarajan

6.The Registrar,
Tamil Nadu Agro Co-operative Societies,
Chepauk, Chennai - 600 005.

7.The Presiding Officer,
Labour Court, Trichy.

...Respondents in W.P.No.20750/04

1.S.Jayapaul

2.The Registrar,
Tamil Nadu Agro Co-operative Societies,
Chepauk, Chennai - 600 005.

3.The Presiding Officer,
Labour Court, Trichy.

...Respondents in W.P.No.20751/04

Common Prayer: Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, after calling for the records of the 7th and 3rd respondents respectively pertaining to their proceedings in Computation Petition Nos.1/2002 & 12/2002 respectively and quash the order dated 09.03.2004.

For Petitioner : Mr.R.Siva Kumar

(in both the WPs)

For Respondents: M/s.D.Kalaiselvi,

for R.1, 3 & 4

Mr.G.Purushothaman

for R.2

Mrs.T.Girija, GA (for R.6)

R7- Labour Court

R3- Labour Court

No appearance for R.5

[in W.P.No.20750 of 2004]

M/s.D.Kalaiselvi (for R.1)

Mrs.T.Girija, GA (for R.2)

[in W.P.No.20751 of 2004]

COMMON ORDER

The order dated 09.03.2004 passed in C.P.No.1/2002 & C.P.No.12/2002 are sought to be quashed in the present writ petition.

2.The writ petitioner is the Trichy District Co-operative Agro Service Society, which is the Co-operative society registered under the provisions of the Tamil Nadu Co-operative Societies Act. The respondent Nos.1 to 5 in W.P.No.20750 of 2004 and first respondent in W.P.No.20751 of 2004 were the employees of the writ petitioner Co-operative Society and they have filed a computation petition in respect of their grievances regarding the non-payment of salary. The Computation Petition was ordered against which present writ petition is filed.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner society was in financial crisis and was unable to solve the issues. The Government of Tamil Nadu after taking note of the entire situation, by G.O.Ms.No.395, (Agriculture AE-II Department) dated 27.11.2002 initiated winding of proceedings under Section 137 of the T.N.C.S.Act, 1983. In furtherance of the winding up proceedings a Special General Body Meeting of the society was confined and the winding up process has been followed in accordance with the provisions of the Act.

4.Under these circumstances, the aggrieved workmen are bound to approach the Liquidator or the competent authority, but are now implementing the winding up proceedings and as far as the order passed by the 7th respondent Labour Court is concerned, the same cannot be executed as the society is not functioning and already wound up.

5.Thus, the Liquidator under the provisions of the Tamil Nadu Co-operative Societies Act has to settle the dues proportionally with reference to the assets and liabilities and as per the procedures contemplated under the Tamil Co-operative Societies Acts and Rules. Thus, the Order dated 09.03.2004 passed in Computation Petition Nos.1/02 and 12/02 are respectively quashed. The workmen or their representatives are at liberty to approach the Competent Authority/ Liquidator under the provisions of the Tamil Nadu Co-operative Societies Act for the purpose of redressing their grievances.

6.Accordingly, the writ petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer,
Labour Court, Trichy.

2.The Registrar,
Tamil Nadu Agro Co-operative Societies,
Chepauk, Chennai - 600 005.

+1 cc to M/s.R.Sivakumar,Advocate Sr.No. 89729

+2 cc to M/s.D.Kalaiselvi, Advocate Sr.No.89719 & 89720

AKM/03.12.19/3P-6C /

W.P.No.20750 & 20751 of 2004