

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2019

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.9644 of 2019 &

W.M.P.Nos.10265, 10266, & 10267 of 2019

A.Boopathy

... Petitioner

Vs.

1.The Deputy Registrar of
Co-operative Society (Housing),
Salem Region, Salem - 636 016.

2.The Inspector of Labour,
Salem - 636 001.

3.Mettur Industrial Workers
Co-operative Housing Society Ltd.,
KK-128,
Mettur R.S.2, Salem District,
Represented by its President

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorarified Mandamus to call for the records relating to the orders of termination in (1) Na.Ka.No.2144/2015/E1, dated 27.08.2018 of the first respondent and the consequential order in Pro.Na.Ka.No.1/2018 (1), dated 10.12.2018 of the third respondent and quash the same as illegal and issue consequential directions to the respondents 1 and 3 to reinstate the petitioner in service with all backwages, continuity of service and regularization of his services in regular time scale of pay.

For Petitioner : Mr.D.Baskar

For Respondents : Ms.T.Girija
Government Advocate for R1 & R2

Mr.L.P.Shanmugasundaram
Special Government Pleader for R3

O R D E R

Ms.T.Girija, learned Government Advocate takes notice for the respondents 1 and 2; Mr.L.P.Shanmugasundaram, learned Special Government Pleader takes notice for the third respondent. By consent, this Writ Petition is taken up for final disposal.

2. According to the petitioner, pursuant to the order passed by the first respondent / Deputy Registrar of Co-operative Societies, dated 27.08.2018, the third respondent has passed the termination order, dated 10.12.2018, which is in violation of 149 of the Tamil Nadu Co-operative Societies Rules. It is further stated that the petitioner has approached this Court to quash the above said order passed by the first respondent dated 27.08.2018 and the consequential order passed by the third respondent dated 10.12.2018, without approaching the Appellate Authority, since the impugned order dated 27.08.2018 itself, directing the third respondent to terminate the services of the petitioner has been passed by the first respondent / Deputy Registrar of Co-operative Societies. Therefore, the present Writ Petition is maintainable and prays for quashing of the impugned orders dated 27.08.2018 & 10.12.2018.

3. The learned Special Government Pleader and the learned Government advocate appearing for the respondents by relying upon the decision of this Court in CDJ 2006 MCH 1221 [K.Marappan vs. The Deputy Registrar of Co-operative Societies & Another] would submit that challenge against the order of the third respondent-Society is not maintainable under Article 226 of the Constitution of India and the first respondent / Deputy Registrar has given only instructions to the third respondent, based on the enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act and therefore, the Writ Petition is not maintainable. It is further submitted that the petitioner can approach the Appellate Authority along with the condone delay application, if such application is filed, the Society will not make serious objection for allowing the condone the delay application.

4. In view of the above submissions and the judgment, referred supra, this Writ Petition is not maintainable. However, liberty is given to the petitioner to approach the Appellate Authority, by filing an Appeal under Section 153 of the Tamil Nadu Co-operative Societies Act within a period of two weeks from the date of receipt of a copy of this order and seek its remedy. If such Appeal is filed within a period of two weeks from the date of receipt of a copy of this order, the Appellate

Authority may condone the delay in filing the appeal.

5. Accordingly, this Writ Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Deputy Registrar of
Co-operative Society (Housing),
Salem Region, Salem - 636 016.

2.The Inspector of Labour,
Salem - 636 001.

+1 cc to Mr.R.Thamarai Selvan, Advocate, Sr.No. 30888

+1 cc to The Special Government Pleader, ((CO-OP) Sr.No.31963

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CSL/11.06.2019

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