

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-04-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10542 of 2019

I.Vinayakamoorthy

.. Petitioner

vs

1.The Registrar,
Registrar of Cooperative Societies,
Chennai-10.

2.The Joint Registrar of Cooperative Societies,
Salem Region,
Salem-1.

3.The Deputy Registrar (Housing),
Cooperative Societies,
Salem Region,
Salem-16.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to conduct inquiry and pass final order in the Charge Memo dated 8.2.2013.

For Petitioner : Mr.N.Kolandaivelu

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader
(Co-op.).

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to conduct inquiry and pass final order in the Charge Memo dated 8.2.2013.

2. The grievance of the writ petitioner is that on initiation of departmental disciplinary proceedings, the writ petitioner was placed under suspension on the eve of his retirement. Even before retirement, the charge memo was issued in proceedings dated 8.2.2013.

3. The learned counsel for the writ petitioner states that no progress is made in the departmental disciplinary proceedings and the writ petitioner is unable to get his terminal pensionary benefits on account of the pendency of the departmental disciplinary proceedings. Thus, the earlier disposal of the proceedings are certainly warranted.

4. The learned Special Government Pleader, appearing on behalf of the respondents, states that the Department of Vigilance and Anti-Corruption initiated the proceedings and conducting an investigation.

5. However, the learned counsel for the writ petitioner states that the writ petitioner is not an accused in any criminal case and only the departmental disciplinary proceedings are pending against the writ petitioner.

6. This Court is of the considered opinion that even the pendency of the criminal case is not a Bar for the authorities to conclude the departmental disciplinary proceedings based on the available records. Only if the records are not available with the Disciplinary Authority to proceed with the enquiry, the authorities are empowered to take a decision that the departmental disciplinary proceedings pending against the writ petitioner can be kept under abeyance.

7. In all cases, the Disciplinary Authority is at liberty to conduct the departmental disciplinary proceedings, conclude the same and pass final orders with reference to the Rules in force. In the event of availability of materials on records, the charge memo has already been issued. Thus, based on the charge memo as well as the documents cited in the charge memo, the authorities are bound to continue the departmental disciplinary proceedings, conclude the same and pass final orders.

8. The writ petitioner is also bound to cooperate for the early disposal of the enquiry proceedings. In the event of non-cooperation on the part of the writ petitioner, the same shall be recorded by the competent authorities in the proceedings.

9. This being the principles to be followed, the respondents are directed to proceed with the departmental disciplinary proceedings, by affording opportunity to the writ petitioner and by following the procedures, conclude and pass final orders as expeditiously as possible, as the writ petitioner has already attained the age of superannuation.

10. The learned counsel for the writ petitioner made a submission that the writ petitioner undertakes that he will not file any writ petition to quash the charge memo on the ground of delay. In view of the submissions made by the learned counsel for the writ petitioner across the Bar, the respondents are directed to complete the enquiry and pass final orders, within a period of six months from the date of receipt of a copy of this order. The writ petitioner further undertakes that hew will cooperate for the early disposal of the departmental disciplinary proceedings by defending his case in the manner known to law.

11. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

Svn

To

- 1.The Registrar,
Registrar of Cooperative Societies,
Chennai-10.
- 2.The Joint Registrar of Cooperative Societies,
Salem Region,
Salem-1.
- 3.The Deputy Registrar (Housing),
Cooperative Societies,
Salem Region,
Salem-16.

+1cc to Mr.N.Kolandaivelu, Advocate SR.No.37962

+1cc to Government Pleader SR.No.38143

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SSV(CO)
GMY(21/05/2019)