

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.09.2019
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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20993 of 2019
And
W.M.P.Nos.20171 and 20172 of 2019

M.Perumal

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Dharmapuri Region, Dharmapuri,
Dharmapuri District.

2.The President,
S.6756 Eranahalli Primary Agricultural
Cooperative Credit Society,
Eranahalli Village & Post,
Palacode Taluk,
Dharmapuri District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings No.Nil, dated 25.09.2018 and quash the same and consequently directing the respondents to reinstate the petitioner into

service along with backwages, attendant benefits and other monetary benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram for R1
Special Government Pleader
Mr.M.S.Palaniswamy for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the second respondent in his proceedings No.Nil, dated 25.09.2018 and to quash the same and to consequently direct the respondents to

reinstate the petitioner into service along with backwages, attendant benefits and other monetary benefits to the petitioner.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent. By consent, the writ petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner was appointed as Secretary in the second respondent society on 01.12.1992. While

the petitioner was discharging his duties as Secretary, the petitioner was suspended from service on 08.09.2015 for some irregularities. Thereafter, domestic enquiry was conducted and jewel loan borrowers repaid the loan amount and employees vehicle loans were recovered by way of deduction from their salaries. Hence the Enquiry Officer submitted his report stating that the charges were not proved. However, punishment of one year increment cut with cumulative effect was imposed. Thereafter, the petitioner was reinstated into service on 05.03.2018.

4. While such being the position, the first respondent took suo motu revision under Section 153 of the Tamil Nadu Cooperative Societies Act against the order of punishment. The other employees who were suspended along with the petitioner approached this Court challenging the suo motu revision in W.P.Nos.16438 of 2018 etc., batch and obtained interim order that the petitioners therein should appear before the first respondent but the first respondent should not pass any final order unless with prior permission from this Court. The said suo motu revision is pending before the first respondent. Whiles, new Management assumed charges and the second respondent passed

the suspension order on 25.09.2018 for the very same charges, against which, the present writ petition is filed.

5. The learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent, on instructions, would fairly submit that as per G.O.Ms.No.14, Co-operation, Food and Consumer Protection (CN1) Department, dated 12.02.2019, the competent person to take action against the Secretary is the Joint Registrar, however, in the present case, the second respondent has passed the impugned order which is un-sustainable one.

6. In view of the fair submission made by the learned Special Government Pleader appearing for the first respondent and the

learned counsel appearing for the second respondent, since the incompetent person namely, the second respondent has passed the impugned order and as per G.O.Ms.No.14, Co-operation, Food and Consumer Protection (CN1) Department, dated 12.02.2019, the competent person to take action is the Joint Registrar, this Court is inclined to set aside the impugned order.

7.The writ petition is accordingly allowed. The impugned order is set aside. Liberty is granted to the first respondent to pass appropriate order, if so advised. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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To

1.The Joint Registrar of Cooperative Societies,
Dharmapuri Region, Dharmapuri,
Dharmapuri District.

2.The President,
S.6756 Eranahalli Primary Agricultural
Cooperative Credit Society,
Eranahalli Village & Post,
Palacode Taluk,
Dharmapuri District. सत्यमेव जयते

+1 cc to Special Government pleader (CO-Op) sr77400
+1 cc to Mr.M.S.Palaniswamy Advocate sr77199
+1 cc to Mr.L.P.Shanmugasundaram Advocate sr77051
+1 cc to Mr.C.Prakasam Advocate sr77018

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aa23/09/2019