



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 11.11.2019	Pronounced on: 14.11.2019
-------------------------	---------------------------

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.21794 of 2019
& W.M.P.No.21001 of 2019

A.Mani,
S/o.Appavu Gounder,
No.666, Main Road,
Vanapuram Village & Post,
Thandrapattu Taluk,
Thiruvannamalai District.

... Petitioner

/versus/

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

2. M.Subramani,
S/o.Munusamy,
Vanapuram Village & Post,
Thandrapattu Taluk,
Thiruvannamalai District.

..... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.1019/2018 Sa.Pa, dated 28.06.2019.

For Petitioner : Mr.C.Prakasam

For R1 : Mrs.T.Girija
Government Advocate

For R2 : No appearance

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the 1st Respondent.

2. The case of the petitioner is that, he is the elected President of Vanapuram Primary Agricultural Cooperative Credit Society, Thandrapattu Taluk, Thiruvannamalai District. The 2nd respondent is one of the member of the Society. He is inimically towards the petitioner for not sanctioning loan as per his dictates. Hence, he filed Writ Petition in W.P.No.32237 of 2018 to dispose of the representation given to the 1st respondent for removal from the post of President on the ground that the petitioner daughter-in-law is working as a Sales Woman in a fair price shop run by the Society. The Hon'ble High Court directed the 1st respondent to dispose of the 2nd respondent's representation in accordance with law vide its order dated 06.12.2018. Pursuant to that, the 1st respondent has passed impugned order holding that the petitioner herein is disqualified to hold the post of President of the said society under Section 34(1) of the Co-operative Society since, Rajalakshmi W/o.Arun Kumar is employed as a Sales woman in a fair price shop run by the Society. The said Arun Kumar is son of the petitioner. So, considering the provisions under the Co-operative Societies, which debars a person holding the post in the Society if any of the Blood relatives are paid employee in the said Society.

3. According to the petitioner herein, he admits the fact that his daughter-in-law Rajalakshmi is working as a Sales woman in a fair price shop run by the Society. However, according to him, the post of Sales woman is not a cadre post sanctioned by the Government for a fair price shop. When Rajalakshmi is not serving under the cadre post, her employment in the Society as a Sales woman will not stand a bar for the petitioner to hold the post of President. According to the petitioner, Rajalakshmi was employed as a Sales woman for the past 9 years.

4. Rule 63 of the Tamil Nadu Co-operative Societies Act, 1988, applies only to cadre employees of the society. When Sales woman does not fall under the cadre post of a Co-operative Society, her employment cannot be a bar for the petitioner to hold the post of Secretary.

5. In the counter filed by the 1st respondent, it is stated that, the Rajalakshmi the daughter-in-law of the petitioner joined as a Sales woman in the Vanapuram Primary Agricultural Co-operative Credit Society on 02.02.2009 and continuously working till date.

(i). Section 34(1)(a) of the Co-operative Societies Act, 1983, states that, "no person shall be eligible for being elected or nominated as a member of the board of any registered society if near relatives, as may be prescribed, the paid employee of such registered society."

(ii). Rule 63 of the Co-operative Societies Act, 1988, a list out the near relatives for the purpose of Clause (a) of Sub-Section (1) of Section 34. Thus, entry No.10 in the list provided under Rule 63 includes Son's Wife, son and daughter. Accordingly, the petitioner herein was found disqualified to hold the post of President.

6. It is further stated in the counter that, the statute proscribe, holding the post by a person if his close relatives or paid employee of the said society. It does not distinguish the cadre post or ex-cadre post. Therefore, the Learned Government Advocate appearing for the 1st respondent would submit that the petitioner is disqualified to hold the elected President in view of the Section 34(1)(a) and Rule 63 (10) of the Tamil Nadu Co-operative Societies Act.

(i). Section 34 (1)(a) of the Tamil Nadu Co-operative Societies Act, 1983, reads as below:

34. Disqualifications for membership of board:-

(1) No person shall be eligible for being elected or nominated as a member of a board of any registered society if he-

(a) is such near relation, as may be prescribed, of a paid employee of such registered society.

(ii). Rule 63 of the Tamil Nadu Co-operative Societies Rules, 1988 reads as below:

63. Near relations of a paid employee for purposes of disqualification for membership of the board:- For the purpose of clause (a) of sub-section (1) of section 34, the following near relations of the paid employee shall be disqualified for membership of the board, namely:-

- (1) Spouse (wife or husband)
- (2) Father (including step-father)
- (3) Mother (including step-mother)
- (4) Brother (including step-brother)
- (5) Sister (including step-sister)
- (6) Son (including step-son)
- (7) Daughter (including step-daughter)
- (8) Brother's wife, son and daughter
- (9) Sister's husband, son and daughter
- (10) Son's wife, son and daughter
- (11) Daughter's husband, son and daughter

- (12) Spouse's father and mother
- (13) Spouse's brother, his wife, son and daughter
- (14) Spouse's sister, her husband, son and daughter
- (15) Father's brother, his wife, son and daughter
- (16) Mother's brother, his wife, son and daughter
- (17) Father's sister, her husband, son and daughter
- (18) Mother's sister, her husband, son and daughter
- (19) Father's father and mother
- (20) Mother's father and mother.

7. As pointed out by the Learned Government Advocate for the 1st respondent the statute mentions "a paid employee" of the Society and it is not restricted to employee holding cadre post. Admittedly, in this case, Rajalakshmi is a paid employee of the Society for the past 10 years. While so, the 1st respondent, after due enquiry has held that the petitioner herein is not qualified to hold the post in view of Section 34 (1) (a) of the Tamil Nadu Co-operative Societies Act, 1983. This Court finds no error in the order passed by the 1st respondent. Accordingly, the Writ Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm
To,

The Joint Registrar of Cooperative Societies,
Thiruvannamalai Region, Thiruvannamalai,
Thiruvannamalai District.

+2cc to Mr.C.Prakasam, Advocate SR.95044 & 93807
+1cc to Spl Government Pleader(CO-OP) SR.95084

Writ Petition No.21794 of 2019

SPD(CO)
CB(16/12/2019)