

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2019

CORAM

THE HONOURABLE Mr. JUSTICE M. DHANDAPANI

W.P.No.26856 of 2019

and

W.M.P.Nos.26270 and 26271 of 2019

M. Panneerselvam

... Petitioner

vs

1.The Joint Registrar of Co-operative Societies,
Salem Region, Salem.

2.209, O. Nadupatty Primary Agricultural
Co-operative Credit Society Limited,
rep. by its President,
Nadupatty, Omalur Taluk,
Salem District.

3.P. Marappan,
President,
209, O. Nadupatty Primary Agricultural
Co-operative Credit Society Limited,
rep. by its President,
Nadupatty, Omalur Taluk,
Salem District.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Mandamus,
forbearing the 2nd respondent from continuing the disciplinary
proceedings against the petitioner after promulgation of
G.O.Ms.No.14, Co-operation, Food and Consumer Protection (CNI)
Department, dated 12.02.2019 and Common Cadre Service Rules,
2019.

For Petitioner : Mr.M.S. Palaniswamy
For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

The petitioner has filed this writ petition forbearing the 2nd respondent from continuing the disciplinary proceedings against the petitioner after promulgation of G.O.Ms.No.14, Co-

operation, Food and Consumer Protection (CNI) Department, dated 12.02.2019 and Common Cadre Service Rules, 2019.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents. 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 2nd respondent Society on 31.10.2011. While the petitioner was discharging his duties as Secretary, on 17.10.2018, the President of the 2nd respondent Society without notice or enquiry directed the petitioner to handover the charge to Mr. Ravi, Accountant. Thereafter, the 2nd respondent issued 8 charge memos one after another without any basis and the allegations are not supported by any documents. On 02.01.2019, the petitioner was suspended from service. After receipt of charge memos, the petitioner requested the 2nd respondent to furnish the documents referred in the Charge Memo and also payment of Subsistence Allowance. The 2nd respondent without paying Subsistence Allowance and furnishing documents issued enquiry notices. No Enquiry Officer was appointed and no report was submitted. The 2nd respondent has sent a Second Show Cause Notice dated 05.08.2019 and they issued another Show Cause Notice dated NIL which was received by the petitioner on 27.08.2019. The issuance of Charge Memos and the Second Show Cause Notice are without jurisdiction.

4. It is the further case of the petitioner that since the Government of Tamil Nadu promulgated G.O.Ms.No.14, Co-operation, Food and Consumer Protection Department, dated 12.02.2019 and Common Cadre Service Rules, 2019, the Secretary of the Primary Co-operative Societies are brought under the Common Cadre Service. Under the Government Order, the disciplinary action can be initiated against the Secretary only by the Joint Registrar of Co-operative Societies and not by the 3rd respondent. After promulgation of the Government Order, the 3rd respondent has no authority or jurisdiction to take disciplinary action against the petitioner.

5. The learned Special Government Pleader appearing for the respondents, on instructions, would fairly submit that as per G.O.Ms.No.14, Co-operation, Food and Consumer Protection (CNI) Department, dated 12.02.2019, the Competent Person to take action against the Secretary is the Joint Registrar, however, in the present case, the 3rd respondent has passed the impugned order which is unsustainable one.

6. In view of the fair submission made by the learned Special Government Pleader appearing for the respondents, since the incompetent person, namely, the 3rd 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.

Accordingly, this Writ Petition is allowed. The impugned order is set aside. Liberty is granted to the first respondent to pass appropriate orders, if so advised. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mps

To

1.The Joint Registrar of Co-operative Societies,
Salem Region,
Salem.

+1cc to Mr. M.S.Palaniswamy, Advocate, S.R.No. 80287
+1cc to Mr.L.P.Shanmughasundaram, Advocate, S.R.No. 79621
+1cc to the Special Government Pleader (Co-Op), S.R.No. 79671

W.P.No.26856 of 2019
and

W.M.P.Nos.26270 & 26271/2019

EV(CO)
GN(12/12/2019)

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