

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 27465, 27466, 27470, 27471 & 27473 of 2019

and

WMP.Nos. 26939, 26943, 26946, 26947, 26951, 26952, 26953, 26955,
26957 & 26958 of 2019

WP.No.27465 of 2019:

S.Arunagiri

... Petitioner

Versus

- 1.The Joint Director of Co-operative Societies/
Common Cadre Service,
Kancheepuram Region, Kancheepuram,
Kancheepuram District.
 - 2.The Deputy Registrar of Co-operative Societies,
Chengalpattu Circle, Chengalpattu,
Kancheepuram District.
 - 3.The President,
G.2253, Perumbedu Primary Agricultural
Co-operative Credit Society,
Permabedu Village, Pandur Post - 603 109,
Thirukazhukkundram Taluk,
Kancheepuram District.
 - 4.The President,
Palur Primary Agricultural Co-operative Credit Society,
Palur Village & Post,
Chengalpattu Taluk,
Kancheepuram District.
- ... Respondents

WP.No.27466 of 2019:

M.Natarajan

... Petitioner

Versus

- 1.The Joint Director of Co-operative Societies/
Common Cadre Service,
Kancheepuram Region, Kancheepuram,
Kancheepuram District.

2.The Deputy Registrar of Co-operative Societies,
Chengalpattu Circle, Chengalpattu,
Kancheepuram District.

3.The President,
G.2242, Nellikuppam Primary Agricultural
Co-operative Credit Society,
Nellikuppam Village, Pandur Post - 603 108,
Sembakkam Via,
Kancheepuram District.

4.The President,
Zamin Pandur Primary Agricultural Co-operative Credit Society,
Zamin Pandur,
Thirukazhukkundram Taluk,
Kancheepuram District. Respondents

WP.No.27470 of 2019:

S.Mahalingam ... Petitioner

Versus

1.The Joint Director of Co-operative Societies/
Common Cadre Service,
Kancheepuram Region, Kancheepuram,
Kancheepuram District.

2.The Deputy Registrar of Co-operative Societies,
Chengalpattu Circle, Chengalpattu,
Kancheepuram District.

3.The President,
G.1580, Vayalur Primary Agricultural
Co-operative Credit Society,
Thirukazhukkundram Taluk,
Kancheepuram District - 603 108.

4.The President,
G.2206, Perumaleri Primary Agricultural
Co-operative Credit Society,
No.77, T.K.M. Road, Mamallapuram,
Thirukazhukkundram Taluk,
Kancheepuram District. ... Respondents

WP.No.27471 of 2019:

A.L.Venkataswami ... Petitioner

- 1.The Joint Director of Co-operative Societies/
Common Cadre Service,
Kancheepuram Region, Kancheepuram,
Kancheepuram District.
- 2.The Deputy Registrar of Co-operative Societies,
Chengalpattu Circle, Chengalpattu,
Kancheepuram District.
- 3.The President,
Periyaputheri Primary Agricultural
Co-operative Credit Society Ltd., No.G.1822,
Chenneri Village & Post,
Sembakkam Via,
Chengalpattu Taluk,
Kancheepuram District - 603 108.
- 4.The President,
G.2465, Mullipakkam Primary Agricultural
Co-operative Credit Society,
Mullipakkam & Post - 603 105,
Manampathi Via,
Kancheepuram District. ... Respondents

WP.No.27473 of 2019:

S.Elumalai ... Petitioner

Versus

- 1.The Joint Director of Co-operative Societies/
Common Cadre Service,
Kancheepuram Region, Kancheepuram,
Kancheepuram District.
- 2.The Deputy Registrar of Co-operative Societies,
Chengalpattu Circle, Chengalpattu,
Kancheepuram District.
- 3.The President,
G.2206, Perumaleri Primary Agricultural
Co-operative Credit Society,
No.77, T.K.M. Road, Mamallapuram,
Kancheepuram District.
- 4.The President,
Vallipuram Primary Agricultural
Co-operative Credit Society,
Vallipuram, Thirukazhukundram Taluk,
Kancheepuram District. ... Respondents

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.4249/2019/Tho.Vae.Sa, dated 08.08.2019; Na.Ka.4246/2019/ Tho.Vae.Sa, dated 08.08.2019; Na.Ka.4248/2019/Tho.Vae.Sa, dated 08.08.2019; Na.Ka.4245/2019/Tho .Vae.Sa, dated 08.08.2019; Na.Ka.4247/2019/Tho.Vae.Sa, dated 08.08.2019 respectively, and quash the same.

For petitioner : Mr.C.Prakasam
(in all WP's)

For Respondents: Mr.L.P.Shanmugasundaram,
(in all WP's) Special Government Pleader (Co-op.,)

COMMON ORDER

All the Writ Petitions have been filed by the petitioners, challenging the impugned transfer order dated 08.08.2019 passed by the first respondent/the Joint Registrar of Co-operative Societies/Common Cadre Service, Kancheepuram District, under Section 75(3) of the Tamil Nadu Co-operative Societies Act, 1983, transferring the petitioners to the respective places mentioned in the said orders.

2.The only grievance pointed out by the petitioners is that challenging the Government order in G.O.Ms.No.14, Co-operation Department, dated 12.02.2019, various writ petitions have been filed by the Co-operative Employees Union and other Associations before this Court all the same are pending. While so, by the impugned orders, the first respondent has transferred all the petitioners, despite an assurance given before this Court by the learned counsel for the respondent that the employees, including petitioners herein would not be disturbed until finalization of the said writ petitions.

3.In fact, a batch of Writ Petitions in WP.(MD).Nos.19975, 19979 of 2019 etc., were filed before the Madurai Bench of Madras High Court, seeking to declare the proviso to Sub-section (3) of Section 75 of the Tamil Nadu Co-operatives Societies Act, 1983 enabling the State Government to constitute a committee comprising only a Single Officer of the Government not below the rank of the Joint Registrar in the Co-operative Societies as the "Competent Authority" for three years from the date of constitution of common cadre system for the post of Secretary in the Primary Agricultural Co-operative Credit Societies and Sub-Rule (4) of Rule 3 of the Rules appointing the Joint Registrar of Co-operative Societies of the Region concerned as the "Competent Authority" under the first proviso

to sub-section(3) of Section 75 of the Act as opposed to public policy and ultra vires the objects of the Act, this Court by a common order dated 26.09.2019, dismissed the same with the following observations:-

" 27. Arguments on the validity of the proviso to Section 75 (3) of the Act was on the ground that for the first three years, there will be a Single Officer in the rank not below the Joint Registrar in the Co-operative Department as a competent Authority constituted under Section 75(3) of the Act. This provision has been in existence ever since the Act came into force. The proviso is in the nature of an interim arrangement having a specified period, (i.e) not exceeding three years and we find no reason to hold the provision to be unconstitutional and the petitioners have not been able to establish any unconstitutionality in the provision to Section 75 (3) of the Act. Therefore, the argument that the proviso to Section 75(3) of the Act is ultra vires to the constitution of India has to fail.

28. To be noted that common cadre system is in respect of various posts in the Co-operative Department. If that be the position, it can hardly be stated that by introducing the common cadre system to the post of Secretary in Primary Agricultural Co-operative Credit Society will affect the autonomy of the Society is an unacceptable argument.

29. The learned counsels for the petitioners argued that if a Secretary, who is working in A-Class Society is transferred to C-Class Society, his pay and allowances will be affected and it will be detrimental to his service conditions. We find such apprehension to be baseless. As rightly pointed out by the learned Special Government Pleader, Rule 8 of the Rules takes care of such situation and the common cadre employees will draw the pay and allowances as they presently draw till the pay and allowances and other service benefits of common cadre employees is decided by the Registrar from time to time. The encomium paid by the elected Board of Directors in favour of the petitioners can hardly improve the case of the petitioners when the challenge is to the constitutional validity of the enactment.

30. Thus, for all the above reasons we find no ground to grant the prayer sought for in the Writ Petitions. Accordingly, the Writ Petitions fail and are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

4. In view of the above decision, which is squarely covered in the present Writ petition, since the challenge made in the above said Writ petitions as well as the present Writ petitions is one and the same. The first respondent invoking the Sub-section (3) of Section 75 of the Co-operative Societies Act,

has rightly passed the transfer orders and hence, it is valid one. In the above circumstances, this Court does not find any illegality or infirmity in the impugned orders and the same does not call for any interference. Therefore, these Writ Petitions are liable to be dismissed.

5.However, insofar as the contention of the learned counsel for the petitioners relating to the challenge made to the Government order in G.O.Ms.No.14, Co-operation Department, dated 12.02.2019 is concerned, is pending before the Division Bench, it is made clear that any favourable orders that may be passed by the Division Bench of this Court in the pending writ petitions, it is needles to say that the same would stand extended to the petitioners in these Writ Petitions as well.

6.With the above observations, the Writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Joint Director of Co-operative Societies/
Common Cadre Service,
Kancheepuram Region, Kancheepuram,
Kancheepuram District.
- 2.The Deputy Registrar of Co-operative Societies,
Chengalpattu Circle, Chengalpattu,
Kancheepuram District.
- 3.The President,
G.2253, Perumbedu Primary Agricultural
Co-operative Credit Society,
Permabedu Village, Pandur Post - 603 109,
Thirukazhukkundram Taluk,
Kancheepuram District.
- 4.The President,
Palur Primary Agricultural Co-operative Credit Society,
Palur Village & Post,
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- 5.The President,
G.2242, Nellikuppam Primary Agricultural
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Nellikuppam Village, Pandur Post - 603 108,
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- 6.The President,
Zamin Pandur Primary Agricultural Co-operative Credit Society,
Zamin Pandur,
Thirukazhukkundram Taluk,
Kancheepuram District.
- 7.The President,
G.1580, Vayalur Primary Agricultural
Co-operative Credit Society,
Thirukazhukkundram Taluk,
Kancheepuram District - 603 108.
- 8.The President,
G.2206, Perumaleri Primary Agricultural
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Thirukazhukkundram Taluk,
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- 9.The President,
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Co-operative Credit Society Ltd., No.G.1822,
Chenneri Village & Post,
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Chengalpattu Taluk,
Kancheepuram District - 603 108.
- 10.The President,
G.2465, Mullipakkam Primary Agricultural
Co-operative Credit Society,
Mullipakkam & Post - 603 105,
Manampathi Via,
Kancheepuram District.
- 11.The President,
Vallipuram Primary Agricultural
Co-operative Credit Society,
Vallipuram, Thirukazhukkundram Taluk,
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26957 & 26958 of 2019

+1cc to Mr.C.Prakasam , Advocate SR.No. 97404
+5ccs to Mr.L.P.Shanmugasundaram , Advocate SR.No.97960,
92964,97965,97962,97963
+1 cc to Spl Government Pleader Sr.No. 97539,97537,97538,97536

A.SK(10/01/2020)

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