

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.10.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.30538 of 2019

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.. Petitioner

Vs.

- 1.The Secretary to Government,
Co-Operative Department,
Office of the Chief Secretariat,
Government of Puducherry,
Puducherry.
- 2.The Deputy Registrar,
The Registrar of Co-Operative Societies,
V.V.P. Nagar, Thatanchavady,
Puducherry - 605 009.
- 3.The President,
No.P.133, Poraiyur Primary Agriculture
Co-Operative Society Limited,
Poraiyur, Puducherry.
- 4.G.Baskaran,
Manager,
No.P.133, Poraiyur Primary Agriculture
Co-Operative Society Limited,
Poraiyur, Puducherry.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider and pass orders on the petitioner's representation dated 22.07.2019 within a time frame.

For Petitioner : Mr.J.Zeakumar

For Respondents : Mr.A.V.Ramalingam
Additional Government Pleader
for Pondicherry

O R D E R

This Writ Petition is filed for a Writ of Mandamus, directing the respondents to consider and pass orders on the petitioner's representation dated 22.07.2019 within a time frame.

2. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the petitioner filed the Writ Petition for a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 22.07.2019, wherein it has been stated that the services of the fourth respondent were regularised in the post of Manager. Aggrieved by such regularisation, the petitioner made a representation dated 22.07.2019 to the first respondent and however, till date the same was not considered by the first respondent. Hence, the petitioner has come out with the present Writ Petition.

4. Mr.J.Zeakumar, learned counsel for the petitioner would submit that the fourth respondent was appointed in the services of the third respondent in the year 1990 and while serving as a Manager in the third respondent Co-Operative Society, he committed serious misconduct. Therefore an enquiry officer was appointed to conduct an enquiry regarding the serious misconduct committed by the fourth respondent. Based on the report of the enquiry officer, the fourth respondent was demoted to the scale of Junior Clerk and in the meantime, the petitioner was appointed as manager in-charge of the third respondent society. Thereafter the services of the fourth respondent was regularised by the second respondent vide his proceedings bearing No.5/1/1/3/RCS/Credit/C2/2000/PF/85 dated 29.06.2018 by suppressing the material fact of punishment of demoted to the scale of Junior Clerk for serious misconduct committed by the fourth respondent. The regularisation of services of the fourth respondent by the second respondent is unsustainable one and for which the same, the petitioner sent a representation dated 22.07.2019 to the first respondent. He would further submit that it would be suffice to issue direction to the first respondent to consider the representation dated 22.07.2019 sent by the petitioner to the first respondent and pass orders on merits and in accordance with law.

5. Mr.A.V.Ramalingam, learned Additional Government Pleader for Pondicherry appearing for the respondents would submit that the punishment suffered by the fourth respondent was over in the year 2010 itself. The services of the fourth respondent in the post of Manager was regularised with effect from 1990. If the

petitioner has any dispute with regard to regularisation of the services of the fourth respondent, the dispute will lie under Section 84 of The Pondicherry Co-operative Societies Act, 1972, before the Tribunal. Therefore merely filing a Writ Petition without any provision against the regularisation of the fourth respondent is unsustainable and prayed for dismissal of the Writ Petition.

6. Heard Mr.J.Zeakumar, learned counsel for the petitioner and Mr.A.V.Ramalingam, learned Additional Government Pleader appearing for the respondents.

7. Considering the facts and circumstances of the case, this Court perused the order of the second respondent dated 29.06.2018, wherein the second respondent after taking into consideration the past 28 years of the service in the society post facto approval is accorded to the second respondent to regularise the services of the fourth respondent in the post of Manager of the society with effect from 05.12.1990 and aggrieved by the said regularisation, the petitioner filed Writ of Mandamus. However, the petitioner did not disclose any reason for objecting the regularisation except stating, earlier the fourth respondent suffered punishment. However there is no provision for regularising the services of the petitioner on par with the fourth respondent, this Writ Petition fails and is liable to be dismissed.

8. The services of the fourth respondent were regularised with effect from the year 1990 and there is no provision for the petitioner to prohibit the regularisation of the services of the fourth respondent. In the absence of any provision, this Court cannot issue Writ of Mandamus as prayed by the petitioner.

9. In the result, the Writ Petition is dismissed. No costs.

Sd/-

सत्यमेव जयते Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Co-Operative Department,
Office of the Chief Secretariat,
Government of Puducherry,
Puducherry.

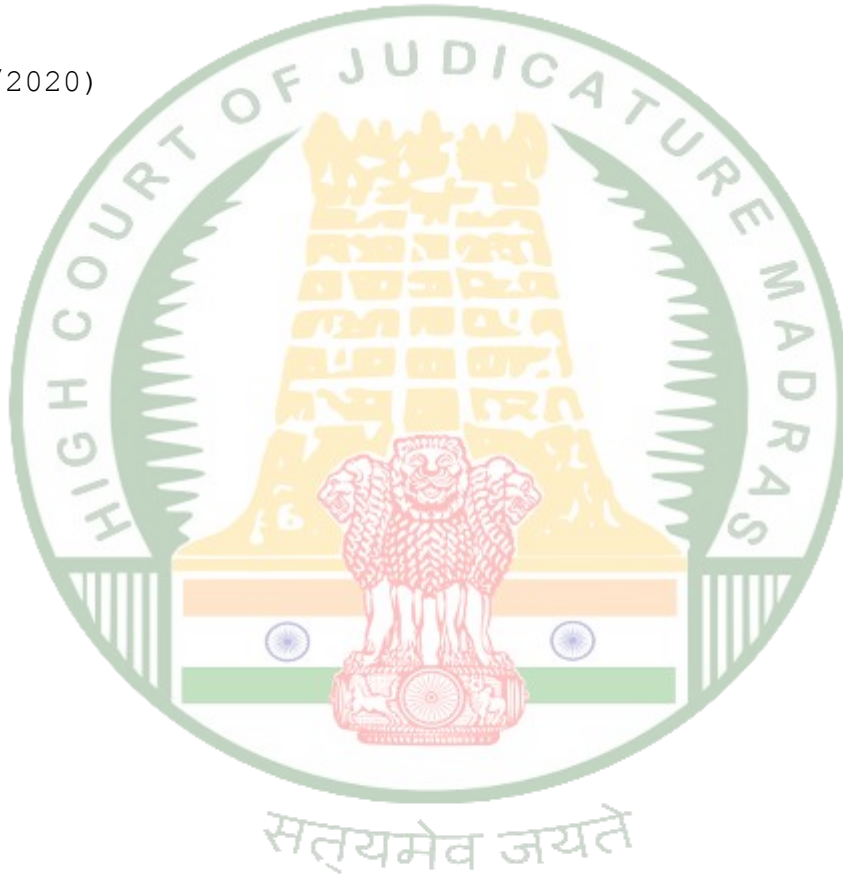
2.The Deputy Registrar,
The Registrar of Co-Operative Societies,
V.V.P. Nagar, Thatanchavady,
Puducherry - 605 009.

+1cc to M/s.Achari Antoni Associates, Advocate SR.No.90292

+2cc to Public Prosecutor for Puducherry, High Court, Madras
SR.No.90432, 89600

W.P.No.30538 of 2019

CA (CO)
GMY (03/01/2020)



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