



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2407 of 2019 and
W.M.P.(MD)Nos.1866 & 1867 of 2019

ICICI Bank Staff Co-operative
Thrift and Credit Society Ltd.,
No.8(37), Viswasapurai 3rd Street,
Gnanaolivupuram, Madurai - 625 016,
Rep. by its Secretary.

... Petitioner

Vs.

1. The Government of India,
Ministry of Agriculture & Farmers Welfare,
Office of the Central Registrar of Co-operative Societies,
Krishi Bhavan, New Delhi - 110 001,
Rep. by its Central Registrar.

2. The Assistant Commissioner of (Co-operation),
Office of the Central Registrar of Co-operative Societies,
Krishi Bhavan, New Delhi - 110 001.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with order dated 18.12.2018 bearing No.R-11017/96/2017-L&M passed by the Assistant Commissioner of (Co-operation) and further direct the Central Registrar of Co-operative Societies to pass an order for winding up of the petitioner Society and appoint a Liquidator to process the liquidation.

For Petitioner : Mr.S.Sanjay Mohan,
for M/s.S.Ramasubramaniam
Associates.

For R-1 : Mr.M.D.Poornachari

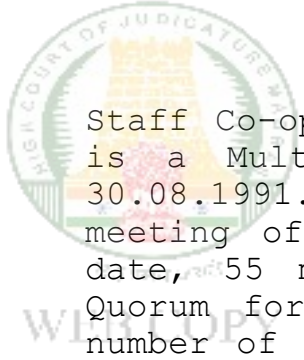
For R-2 : No appearance.

O R D E R

Heard the learned counsel on either side.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The subject matter pertains to the affairs of ICICI Bank



Staff Co-operative Thrift and Credit Society Ltd. The said Society is a Multi-State Co-operative Society. It was incorporated on 30.08.1991. The Society at present has 255 members. The General Body meeting of the Society was convened on 24.06.2018. On the said date, 55 members were present. According to Bye law No.25, the Quorum for the general meeting shall be one fifth of the total number of members of the general body or 50 whichever is less. In the present case, since 55 members had attended the meeting, the meeting did have proper quorum. The General Body meeting resolved to go for voluntary winding up and resolution was passed to that effect. Thereafter, it was submitted to the second respondent for approval.

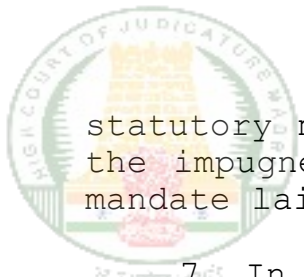
3. The second respondent instead of giving his assent to the resolution for voluntary winding up of the Society chose to direct the Society to conduct election to the Board of Directors on or before 28.02.2019. Liberty was given to the Society to approach the Central Registrar for voluntary winding up of the Society by the newly elected board with the approval of the general body again. The impugned communication dated 18.12.2018 was passed to this effect. The said communication is assailed in this Writ petition.

4. The order impugned in this Writ petition was passed by the second respondent. This Court ordered notice to the second respondent. It is seen that the notice was also served. The name of the second respondent is also printed in the cause list.

5. The learned Senior counsel appearing for the Writ petitioner drew my attention to Section 86(6) of the Multi-State Co-operative Societies Act 2002. The said provision reads as under:-

"Notwithstanding anything contained in this section, the Central Registrar shall make an order for the winding up of a multi-State co-operative society, if the society, by a resolution passed by two-third majority of members present and voting in a general meeting decides for winding up of that society."

6. The learned counsel placed emphasis on the expression "shall" occurring in the said provision. For any registered society, it is the general body that is supreme. In this case, the resolution was passed by the general body. When the resolution was moved for winding up of the Society, except one member, all the other members voted in favour of the resolution. Therefore, the requirement set out in Section 86(6) of the Act is more than fulfilled in this case. The second respondent was obliged to accord his assent to the resolution passed by the General Body of the petitioner Society. The second respondent erred in declining to give its approval and directing the petitioner to once again conduct election for electing the Board of Directors. When the general body itself has decided to go for voluntary liquidation, the second respondent ought not to have directed the petitioner to once again conduct election. The second respondent has not kept in view the



statutory mandate cast on him under the said provision. Therefore, the impugned order is clearly not in consonance with the statutory mandate laid down in Section 86 of the Act.

7. In this view of the matter, the order impugned in this Writ petition is set aside. The second respondent is directed to pass an order for winding up of the writ petitioner Society and appoint a liquidator to process the liquidation. Such an order shall be passed within a period of eight weeks from the date of receipt of a copy of this order.

8. This Writ petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Central Registrar, Government of India,
Ministry of Agriculture & Farmers Welfare,
Office of the Central Registrar of Co-operative Societies,
Krishi Bhavan, New Delhi - 110 001
2. The Assistant Commissioner of (Co-operation),
Office of the Central Registrar of Co-operative Societies,
Krishi Bhavan, New Delhi - 110 001.

+1 CC to M/s.S.RAMA SUBRAMANIAN, Advocate (SR-51271[F] dated 04/03/2019)

+1 CC to M/s.M.D.POORNACHARI, Advocate (SR-51279[F] dated 04/03/2019)

PMU

TE/KM : 03/04/2019 : 3P/5C

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