



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.12660 of 2019

and

W.M.P (MD) .No.9407 of 2019

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Mr.Jeyaprakash

... Petitioner

-Vs-

1.The Joint Registrar of Co-operative Society,
Tuticorin Region,
Tuticorin District.

2.TN.Spl.63 Pasuvanthanai Primary Agricultural
Cooperative Credit Society Limited,
Represented by its President,
Pasuvanthanai,
Ottapidaram Taluk,
Tuticorin District.

3.The Enquiry Officer,
TN.Spl.63 Pasuvanthanai Primary Agricultural,
Co-operative Credit Society Limited,
Pasuvanthanai, Ottapidaram Taluk,
Tuticorin District.

4.Mr.N.Senthoo Pandian,
Present President of
TN.Spl.63 Pasuvanthanai Primary Agricultural,
Co-operative Credit Society Limited,
Pasuvanthanai, Ottapidaram Taluk,
Tuticorin District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent dated 20.05.2019 and quash the same as illegal and consequently direct the second respondent to reopen the domestic enquiry and to afford sufficient to hold the enquiry in fresh after giving sufficient opportunity to the writ petitioner.

For Petitioner : Mr.AL.Kannan

For R1 : Mr.C.Ramar,
Additional Government Pleader

For R2 & R3 : Mr.R.J.Karthick



ORDER

The petitioner is challenging the second show cause notice dated 20.05.2019, issued by the second respondent, after conclusion of the domestic enquiry.

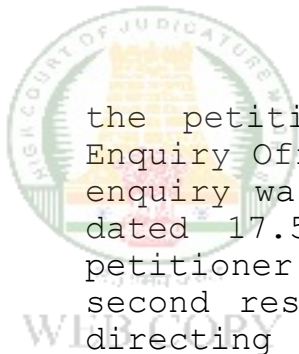
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2. According to the learned counsel for the petitioner, the fourth respondent, on misconception with regard to the election to the Board of Directors, instigated the second respondent to initiate the action against the staff members, including the petitioner and erstwhile office bearers, including the father of the fourth respondent. The petitioner was suspended from service on 19.09.2018. He challenged the order of suspension before the first respondent. The first respondent granted interim stay of the order of suspension. Based on the said interim order, the petitioner joined duty. The second respondent filed a writ petition in W.P (MD).No.22720 of 2018 challenging the order of interim stay of suspension passed by the first respondent. This Court, by order dated 14.11.2018 in W.M.P. (MD)No.20616 of 2018, granted interim stay of the order of the first respondent. Meanwhile, the second respondent issued charge memo dated 10.12.2018 and appointed the third respondent as Enquiry Officer. The petitioner appeared before the third respondent and sought time for filing his objection till the disposal of the writ petition W.P.(MD)No.22720 of 2018 and revision filed before the first respondent, challenging the order of suspension. The third respondent, without giving time sought for by the petitioner, proceeded with the enquiry and submitted his report dated 17.05.2019 to the second respondent holding that the charges levelled against the petitioner were proved. According to the petitioner, the enquiry was not conducted in a fair and proper manner and it is in violation of principles of natural justice. Based on the said report, the second respondent issued impugned notice. The present writ petition is filed to quash the impugned notice and re-open the domestic enquiry and to conduct enquiry afresh after giving sufficient opportunity to the petitioner.

3. Mr.R.J.Karthick, learned counsel appearing for the respondents 2 & 4 contended that the writ proceedings and Revision pending before the first respondent are independent of charges levelled against the petitioner and nothing to do with the charges levelled against the petitioner and the third respondent in such circumstances, has rightly rejected the request of the petitioner to grant time till the disposal of the writ petition in W.P(MD)No.22720 of 2018 and Revision, pending before the first respondent. The petitioner is trying to protract the departmental proceedings and prayed for dismissal of the writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1,2 & 4 and perused the materials available on record.

5. From the materials on record, it is seen that the request of



the petitioner seeking time to file his explanation before the Enquiry Officer pending writ petition and Revision, was rejected and enquiry was proceeded and third respondent has submitted his report dated 17.5.2019, holding that the charges levelled against the petitioner were proved. W.P.(MD)No.22720 of 2018 filed by the second respondent was disposed of by this Court dated 24.10.2019, directing the first respondent to pass orders on merits and in accordance with law on the revision filed by the petitioner, challenging the order of suspension. The petitioner must be given ample opportunity to put forth his case. From the materials on record, it is seen that the Enquiry Officer without giving any reasonable time to the petitioner to submit his explanation, proceeded with the enquiry and concluded the same in a hurried manner. In view of the failure on the part of the third respondent to give reasonable time to the petitioner to file his explanation, pending disposal of the writ petition in W.P.No.22720 of 2018 as stated above, and pendency of the Revision before the first respondent, the impugned notice dated 20.05.2019 and report of the Enquiry Officer dated 17.05.2019 are set aside. The petitioner is directed to submit his explanation for the charges levelled against him, within a period of four weeks from the date of receipt of a copy of this order and co-operate with the respondents 2 & 3 in conducting the domestic enquiry and the respondents 2 and 3 are directed to follow the procedure in conducting the enquiry and conclude the domestic enquiry in accordance with law, within a period of four weeks thereafter.

7. With the above observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

am

To

The Joint Registrar of Co-operative Society,
Tuticorin Region,
Tuticorin District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-99398[F] dated 19/11/2019)

+1 CC to M/s.AL.KANNAN, Advocate (SR-99511[F] dated 19/11/2019)

W.P. (MD) No.12660 of 2019

18.11.2019

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