



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.19722 of 2019

and

W.M.P. (MD)No.16204 of 2019

T.Malathi

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Represented by its Secretary,
Co-operation, Food and Consumer
Protection Department,
Chennai.

2.The Joint Registrar of Co-operative Societies,
Thiruchirapalli.

3.The President,
Lalgudi Primary Agricultural Co-operative Society,
Lalgudi Post and Taluk,
Thiruchirappalli District.

4.The President,
Poovaalur Primary Agricultural Co-operative Society,
Lalgudi Taluk,
Thiruchirapalli 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 of the second respondent pertaining to the order passed in Na.Ka.2589/2019/NtNrr(1), dated 16.07.2019 and subsequent relieving order passed by the third respondent in Na.Ka.1/2019 (La.ru.th.veku.sa), dated 26.07.2019 and subsequently, quash it and further direct the respondents to retain the petitioner as Secretary with the third respondent society service.

For Petitioner : Mr.K.K.Samy

For R1 and R2 : Mr.V.Anand,
Government Advocate.



ORDER

Heard Mr.K.K.Samy, learned counsel appearing on behalf of the petitioner and Mr.V.Anand, learned Government Advocate, who takes notice on behalf of the respondents 1 and 2. Notice to the respondents 3 and 4 is dispensed with, since no adverse order is going to be passed against them.

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

3.This Writ Petition is filed to quash the order of the second respondent, dated 16.07.2019 as well as the order of the third respondent, dated 26.07.2019 and further direction is sought for in the present Writ Petition to retain the petitioner as Secretary with the third respondent society.

4.The petitioner was working as Secretary in the third respondent Co-operative Society. The Government formed a common cadre for the Secretaries, working in the societies. After formation of the common cadre, the Secretaries are liable to be transferred from one society to another society. The petitioner along with 11 others were transferred from the places, where they are working, to other societies, within the same circle. The petitioner is transferred from the third respondent society to the fourth respondent society.

5.According to the learned counsel for the petitioner, the petitioner is aged about 54 years and she is suffering from osteoporosis disease and it will be difficult for her to travel twice a day to the workplace and back to her home. Therefore, he prayed for allowing this Writ Petition.

6.From the materials on record, it is seen that 12 Secretaries, including the petitioner were transferred, by the order dated 16.07.2019, which is impugned in the present Writ Petition. The petitioner has not disputed that she is in a common cadre and she is liable to be transferred from one place to another. She has also not disputed the distance between the third respondent society and the fourth respondent society is only 5 kms.

7.From the impugned order of transfer, dated 16.07.2019, it is seen that twelve Secretaries including the petitioner were transferred. The petitioner was relieved, vide relieving order dated 26.07.2019, which is also impugned in the present Writ Petition. The reason given by the petitioner for setting aside the order of transfer is not valid. The transfer is condition to service, more so, incidental to service. Unless the transfer is *mala fide* or in the nature of punishment, the order of transfer cannot be interfered with by this Court and the distance between the third respondent society, where she was working, and the fourth respondent society, is only 5 kms.



8.In view of the same, this Writ Petition stands dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

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/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Co-operation, Food and Consumer
Protection Department,
Chennai.

2.The Joint Registrar of Co-operative Societies,
Thiruchirapalli.

+1 CC to M/s.K.K SAMY, Advocate (SR-86795[F] dated 16/09/2019)

+1 CC to M/s.SPL GP (SR-86915[F] dated 16/09/2019)

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13.09.2019

myr

JM/24.09.2019/3P/5C