



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 19.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.27026 of 2019

and

W.M.P (MD) .Nos. 23376 and 23377 of 2019

WEB COPY

G.Lal Bahadur Murugan

... Petitioner

vs.

1.The Deputy Registrar of Co-operative Societies  
Office of the Deputy Registrar of Co-operative Societies  
K.T.M.Kasim Centre  
Ramanathapuram District

2.The Administrative Officer  
Co-operative Sub Registrar  
R.R.1397, Schwartz Higher Secondary School  
Employees Co-operative Society  
Ramanathapuram District

3.The Enquiry Officer  
Co-operative Sub Registrar (Retired)/Advocate  
VPLP Illam  
No.50, Middle Street  
Anupanadi  
Madurai -9

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari, to call for the records of the impugned order passed by the third respondent, dated 07.12.2019.

|                 |   |                                                 |
|-----------------|---|-------------------------------------------------|
| For Petitioner  | : | Mr.M.Subash Babu                                |
| For Respondents | : | Mr.M.Jeyakumar<br>Additional Government Pleader |

### **O R D E R**

This Writ petition has been filed to call for the records of the impugned order passed by the third respondent, dated 07.12.2019.

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



3.The learned counsel for the petitioner would submit that the petitioner was appointed as Writer in RR-1397, Swarts Higher Secondary School, Employees Co-operative Thrift and Credit Society on 01.07.1991 as temporary staff and ultimately, he was promoted as Secretary on 01.11.1996. While so, on 04.05.2017, inspection has been conducted, in which, the petitioner was directed to submit the account details. As per direction, he appeared and submitted the records on the very next day ie. on 23.05.2017. However, he was served with suspension order. Against which, the petitioner obtained a stay. Further, on 01.06.2017, there was a paper publication that his property has been attached by the second respondent. But, absolutely, the petitioner had no knowledge about the attachment order and never served with any notice. Therefore, the petitioner filed another writ petition seeking to furnish all the relevant documents and the same was ordered. While being so, on 13.09.2017, the petitioner was directed to appear before the Enquiry Officer and if he needs any documents, he shall get the needed documents from the Enquiry Officer and directed to answer the question. The grievance of the petitioner is that it is impossible to answer all the questions mere seeing the papers. Therefore, he is entitled to get the photocopy of the relevant documents and hence, he filed W.P.No.18905 of 2017, in which, this Court by an order dated 23.10.2017, directed the petitioner to appear before the respondent on 06.11.2017 and on such appearance, the petitioner is permitted to inspect the accounts books so as to place his representation seeking copies of certain pages. Even after obtaining the order, the first respondent without furnishing the relevant documents and not permitted the petitioner to inspect the account books and other documents and straight away passed the impugned order as well as 83 enquiry order. Hence, the petitioner filed another Writ petition in W.P.No.15781 of 2018 and obtained stay on 19.07.2018. Thereafter, the second suspension order was issued though the first suspension order is in force. Therefore, the petitioner filed another Writ petition in W.P.(MD).No.16452 of 2019, challenging the second suspension order. This Court disposed the Writ petition with a direction to the petitioner to give fresh representation and also directed the respondent to pass appropriate order on merits within a period of four weeks. It is stated by the petitioner that the representation was not considered by the respondents, therefore, he filed a contempt petition and the same is pending. Thereafter, a charge memo was issued to the petitioner, in which, the petitioner sought advocate assistance where it was rejected though the petitioner is entitled to have advocate assistance to participate in the enquiry proceedings. In support of his contention, he relied upon the order of this Court in W.P.No.2659 of 2014, dated 25.08.2014 in which, paragraphs 16 and 27 read as follows:

*"16. To examine the above question, it would be worth referring to the Statutes.*

*Rule 19 of the CCS (CCA) Rules r/w EPF Staff (CCA) Rules, 1971 and EPF (Staff & Conditions of Service)*



Regulations provides that in case of an employees who has been convicted by the criminal Court, the disciplinary authority has got powers to impose penalty after giving an opportunity to the convicted person to make representation on the penalty proposed to be imposed.

Rule 10(8A) of EPF Staff (CCA) Rules, 1971, provides:

The employee may take the assistance of any other employee or Government Servant posted in any office either at his Headquarters or at the place where the enquiry is held to present the case on his behalf, but may not engage a Legal Practitioner for the purpose, unless the presenting officer appointed by disciplinary authority is a legal practitioner or the disciplinary authority having regard to the circumstance of the case so permits.

Provided that the employee may take the assistance of any other employee or Government Servant posted at any other station, if the enquiry authority having regard to the circumstances of the case and for the reasons to be recorded in writing so permits.

27.Thus,it is clear that permission to engage a legal practitioner is a parameter absolutely within the domain of the disciplinary authority. In this case, though the Presenting Officer is a legally trained person having knowledge in Labour Laws, EPF Laws and Indian Penal code, the petitioner cannot be denied the right of legal assistance in the departmental proceedings. Therefore, in view of the settled legal position, the decision taken by the Tribunal vide the impugned proceedings cannot be allowed to stand and it has to be set aside.

4.In view of the above settled legal position and in the present circumstances of the case where the petitioner has already approached this Court, the respondents are directed to allow the petitioner to have a legal assistance to effectively defend his case and the enquiry proceedings shall be completed, within a period of three months from the date of receipt of a copy of this order.

5.With the above direction, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (writs)

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/ /2020

Sub Assistant Registrar(CS)



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+1 CC to Mr.M.SUBASH BABU, Advocate ( SR-105860[F] dated  
19/12/2019 )

+1 CC to SPL.GP ( SR-106151[F] dated 20/12/2019 )

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VB(20.01.2020) 4P 6C