

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.06.2020

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P. No.22187 of 2004 and W.P.M.P. No.26866 of 2004

Kancheepuram and Tiruvallur District
Co-operative Housing Societies
Employees Union rep. by its President
48, Agasthiar Street,
East Tambaram, Chennai 600 059.

.. Petitioner

Vs

1.The Deputy Registrar of Coop.
Societies (Housing), Chengelput.

2.Chengelput Cooperative Housing
Society, rep. by its Special Officer,
Chengelput.

3.Thirukkazhukundram Cooperative
Housing Society, rep. by its
Special Officer,
Thirukkazhukundram.

4.Madurantagam Cooperative Housing Society,
rep. by its Special Officer,
Madurantagam,
Kancheepuram District.

5.Utheramerur Taluk Cooperative Housing Society,
rep. By its Special Officer,
Utheramerur, Kancheepuram District.

6.Cheyyur Taluk Cooperative Housing Society,
rep. by its Special Officer,
Cheyyur, Kancheepuram District.

7.Thirukkazhukundram Taluk Cooperative
Housing Society,
rep. by its Special Officer,
Thirukkazhukundram,
Kancheepuram District.

8.Tiruthani Cooperative Housing Society,
rep. by its Special Officer,
Tiruthani, Tiruvallur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the first respondent from initiating surcharge proceedings against the employees of the respondents 2 to 8 in violation and contrary to the specific direction given in the judgment dated 26.02.2001 in Writ Appeal No.247/2001 etc.

For petitioner : M/s.Aiyar & Dolia
for Mr.R.Arumugam

For Respondents : Mr.L.P.Shanmugha Sundaram,
Special Government Pleader
for R1

Mr.R.Thirugnanam for R2 to 8

ORDER

This writ petition has been filed by the petitioner Society forbearing the first respondent from initiating surcharge proceedings against the employees of respondents 2 to 8 in violation and contrary to the specific direction given in the judgment dated 26.02.2001 in Writ Appeal No.247/2001 etc.

2.Learned counsel appearing for the petitioner would submit that the petitioner being an Union, registered under the provisions of Trade Union Act 1926 and espousing the cause and interest of its members employees, who are working in respondents 2 to 8 Co-operative Housing Society for several years and their service conditions are regulated by the Special By-laws and concluded 12(3) and 18(1) Settlements and Board Resolutions. In order to revise the wages and other service conditions, the employees and respondents 2 to 8 reached an agreement. Based on the same, the employees of the fourth respondent and the fourth respondent entered into 18(1) Settlement. In this regard, respondents 5 to 8 also passed resolution to revise the wages and other service conditions to its employees. After a period of two years from the date of settlement, the respondents have not settled the position, without there being any valid reason. As the respondents have implemented the said Settlement and Board Resolution, it is not open to them to go back upon the terms of the Settlement and resorted to recover the amount paid under the Settlement by issuing surcharge notice.

3.Learned counsel appearing for the petitioner would further submit that since the surcharge notices are issued in violation and contrary to the judgment dated 26.02.2001 passed by the Division Bench of this Court in W.A. No.2501 of 2001 etc., the writ petition has been filed seeking the above prayer.

4.Opposing the above prayer, learned Special Government Pleader appearing for the first respondent would submit that the writ petition forbearing the first respondent from initiating surcharge proceedings against the employees of respondents 2 to 8 in violation and contrary to the specific direction given in the judgment dated 26.02.2001 in Writ Appeal No.247/2001 etc. is not maintainable, since the aggrieved members of the petitioner Union can individually challenge the surcharge notice. Moreover, if any order is passed against the aggrieved person, they can approach the Co-operative Tribunal under Section 15(2) of the Tamil Nadu Co-operative Societies Act. When the members of the petitioner are having alternative and effective remedy against any final order passed by the competent authority, the petitioner cannot maintain the writ petition.

5.I also find merits on the submission made by the learned Special Government Pleader. Firstly, when the aggrieved person alone can challenge the final order, the petitioner Union cannot file the writ petition stating that they are aggrieved by the initiation of the surcharge notice. Secondly, if any person aggrieved against the initiation of the surcharge notice, he can challenge the same only before the Co-operative Tribunal under Section 15(2) of the Tamil Nadu Co-operative Societies Act. Therefore, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition fails and the same is dismissed. No Costs. Consequently, WPMP stands closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vga
To
The Deputy Registrar of Coop.
Societies (Housing), Chengelpet.

VGII (CO)
RMP (09/10/2020)

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W.P.M.P. No.26866 of 2004