

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34884 of 2005
and
WVMP.No.273 of 2007

K. Kamaraj

...Petitioner

-vs-

The Deputy Registrar of Co.op. Societies,
Cuddalore Circle,
Pudupalayam, Cuddalore.

...Respondent

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the entire records in so far relate to impugned order passed by the respondent in his proceedings Na.Ka.No.8997/97/Ku.Na., dated 18.12.1998 which was confirmed in Co-Op CMA.No.42 of 1999 on the file of the District Court/ Coop. Tribunal, Cuddalore dated 07.07.2005 and quash the same in so far relate to petitioner concern.

For Petitioner : Mr. C. Prakasam

For Respondent : Mr. L.P. Shanmugasundaram
Special Government Pleader

O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader for the respondent.

2. With consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. This writ petition has been filed challenging the order passed by the Co-operative Tribunal in CMA.No. 42 of 1999, dismissing the appeal filed by the petitioner under Section 152(1) of the Tamil Nadu Co-operative Societies Act, 1983 and confirming the order of surcharge dated 18.12.1998.

4. The surcharge authority has passed an order dated 18.12.1998 stating that the petitioner, while working as a Special Officer, has failed to take action with regard to the illegal appointment made by his predecessor and failed to terminate the employee and to recover the emoluments provided to him.

5. The Court finds no error in the manner in which the proceedings were dealt with by the surcharge authority. The petitioner being aggrieved by the said order filed an appeal before the Tribunal, which has considered the matter in-depth and dismissed the appeal. The Court finds that there is absolutely no error in the decision making process nor there is any perversity in the approach. Hence, the order under challenge does not warrant interference by this Court. Furthermore, though the writ petition is filed under Article 226 of the Constitution of India in the light of the decision of the Hon'ble First Bench in the case of E.S. Sundara Mahalingam Vs. Special Tribunal for Co-operative Cases & Ors. [W.A.No.4021 of 2019 dated 22.11.2019, this petition has to be treated as a petition under Article 227 of the Constitution of India and if the correctness of the impugned order is tested on the anvil of Article 227 of the Constitution, the Court finds no error in the impugned order and does not warrant interference.

In the result, the writ petition fails and stands dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mp

To

The Deputy Registrar of Co.op. Societies,
Cuddalore Circle,
Pudupalayam, Cuddalore.

+lcc to Special Government Pleader SR.No.19301

W.P.No.34884 of 2005

SS(CO)
GMY(27/07/2020)