

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.3655 of 2020
and
W.M.P.No.4308 of 2020

R.Thangamani

...Petitioner

Vs

1.The Chairman,
Common Cadre Authority/
Joint Registrar of Co-operative Societies,
Erode Region, Erode,
Erode District.

2.The President,
K.26 Vadakkupudupalayam Primary,
Agricultural Cooperative Credit Society,
Vadakkupudupalayam,
Unjalur Via-638 152,
Kodumudi Taluk,
Erode District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.3711/2019/Tho.Vae.Sa, dated 23.01.2020 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed challenging the order of transfer passed by the first respondent by his proceedings dated 23.01.2020.

2.The case of the petitioner is that he is working as a Secretary in the second respondent Society from the year 2011 onwards. Initially, the first respondent had passed orders on 15.07.2019, whereby 11 Secretaries were sought to be transferred from one Society to another and this list included the name of the petitioner also. However, subsequently that

order was kept in abeyance. Thereafter, the impugned order came to be passed by the first respondent on 23.01.2020, transferring the petitioner from the second respondent Society to another Society. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Mr.C.Prakasam, learned counsel for the petitioner submitted that the very authority of the first respondent is now under challenge before the First Bench and the hearing is going on and in the mean time, the first respondent has passed the orders transferring the petitioner. The learned counsel further submitted that the first respondent had initially passed the order on 15.07.2019, wherein 11 Secretaries were transferred from one Society to another. This order was kept in abeyance and now the petitioner has been picked and chosen and has been transferred and therefore, the transfer is mala fide. The learned counsel submitted that this transfer has been made only to accommodate someone else in the place of the petitioner. The learned counsel submitted that the petitioner had effectively worked in the second respondent Society and had made it a profit making Society and therefore, the proceedings of the first respondent are liable to be quashed.

4.Per contra, Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the first respondent had only passed the transfer order on administrative grounds and it is well within the powers of the first respondent to pass such orders. In order to substantiate the submissions, the learned counsel brought to the notice of this Court the earlier orders passed by this Court in W.P.No.3181 of 2020, wherein a similar transfer was put to challenge before this Court. The relevant portion in the order is extracted hereunder.

6. It is seen from the records and also from the submissions made on either side that the petitioner has been working as a Secretary in the second respondent Society from the year 2013 onwards. After the Common Cadre Regulation coming into force, it is only the first respondent who is vested with the powers insofar as secretary is concerned. The first respondent has taken to consideration the administrative exigencies and has passed the transfer order by virtue of the powers conferred under Clause 18(1) of the Common Cadre Regulations 2019. This case does not fall within the category of Clause 18(2) of the Common Cadre Regulations 2019, as contended by the learned counsel for the petitioner. Clause 18(1) of the Common Cadre Regulations has an independent power vested with the first respondent to pass such transfer order, considering the administrative exigencies. This Court cannot interfere with such orders, unless the transfer

order is beyond the authority of the first respondent or there was a mala fide reason for passing such an order of transfer. This case does not fall within both those heads. In the considered view of this Court, this Court does not find any ground to interfere with the impugned order of transfer passed by the first respondent in proceedings Na.ka.3711/2019/Tho.Ve.Sa dated 31.01.2020. Accordingly, this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

5.The learned counsel submitted that the above order will clearly apply to the present facts of the case also. That apart, the learned Special Government Pleader also brought to the notice of this Court that the petitioner had already been relieved from the second respondent Society.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.The petitioner had worked as a Secretary in the second respondent Society from the year 2011 onwards. The post of a Secretary is subject to transfers. The power of the first respondent to pass such an order of transfer has been elaborately discussed in the above order that was cited by the learned Special Government Pleader. This Court is not able to find any mala fides in the transfer order passed by the first respondent. The scope of interference against a transfer order is very limited and the present transfer order has been passed only on administrative grounds. This Court does not find any ground to interfere with the transfer order passed by the first respondent and accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-
Assistant Registrar (CO)

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Sub Assistant Registrar

hvk

To

1.The Chairman,
Common Cadre Authority/
Joint Registrar of Co-operative Societies,
Erode Region, Erode,
Erode District.

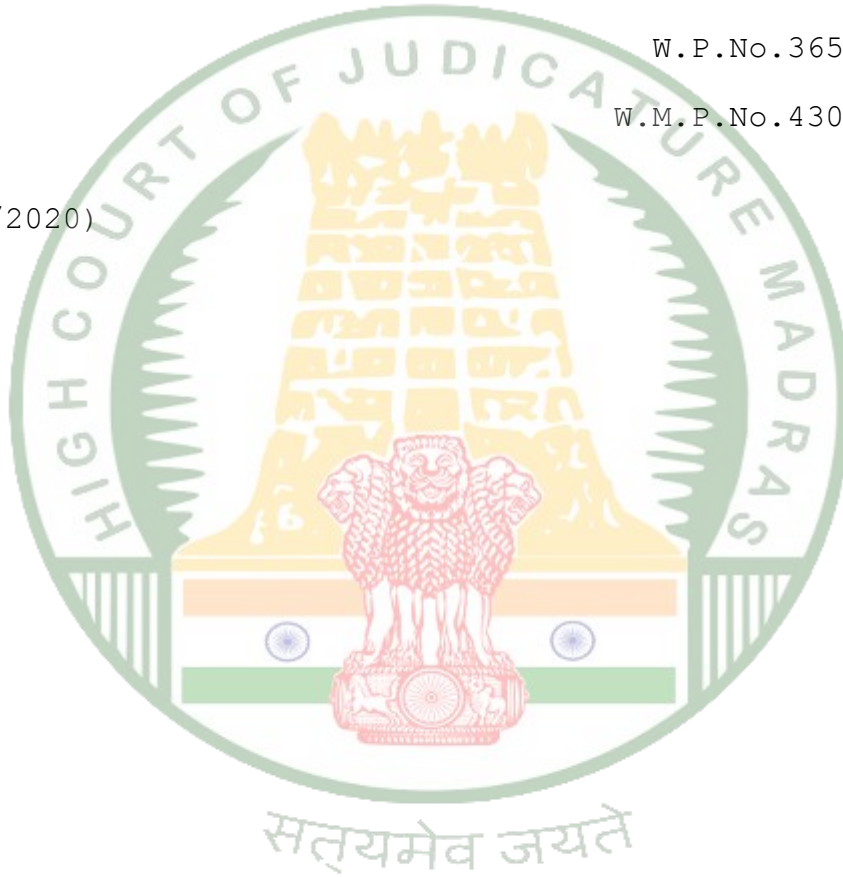
2.The President,
K.26VAdakkupudupalayam Primary,
Agricultural Cooperative Credit Society,
Vadakkupudupalayam,
Unjalur Via-638 152,
Kodumudi Taluk,
Erode District.

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate SR.No.13138

+1cc to Special Government Pleader (CO-OP) SR.No.13057

W.P.No.3655 of 2020
and
W.M.P.No.4308 of 2020

SVI (CO)
GMY (19/02/2020)



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