

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:12.03.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.6494 of 2020
and WMP.No.7699 of 2020

M.Dhandapani

...Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai-606 604.
Thiruvannamalai District.
 - 2.The Deputy Registrar of Cooperative Societies,
Thiruvannamalai Circle,
Thiruvannamalai 606 604.
Thiruvannamalai District.
 - 3.The President,
V.T.645, Vengikkal Primary Agricultural
Cooperative Credit Society,
Vengikkal 606 604.
Thiruvannamalai Taluk & District.
- Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the entire records relating to the impugned charge memo issued by the 3rd respondent in his proceedings No.Nil, dated 18.08.2018 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmughasundaram
Special Government Pleader

O R D E R

The petitioner was appointed as a clerk in the third respondent Society, originally in 25.11.1987. Subsequently, he was promoted as Senior Clerk in 1999, then as Assistant Secretary on 01.07.2004 and finally promoted as Secretary on 01.10.2010. While he was discharging his duties as Secretary, he was placed under suspension on 05.05.2017 followed by a charge memo for certain acts of misconduct like

misappropriation. The suspension was not continued beyond a period of time and he was reinstated into service on 19.10.2017. Thereafter, when the petitioner was working as Secretary on 18.08.2018, the third respondent issued another charge memo on the basis of inspection report under Section 82 of the Tamil Nadu Cooperative Societies Act. He was also arrested and placed under suspension. The subsequent charge memo dated 18.08.2018 is under challenge before this Court.

2. Mr.C.Prakasam, learned counsel for the petitioner would submit that by suppressing the earlier charge memo dated 19.09.2017, the third respondent issued another charge memo dated 18.08.2018, which is impugned in the writ petition.

3. In order to sustain the challenge, the petitioner has raised the following grounds:

"a. The 3rd respondent failed to consider that when the erstwhile President issued charge memo on 19.09.2017, after receipt of the charge memo the petitioner made request to furnish the relevant documents in so far relates to the charges made against the petitioner, since he was under suspension, but the erstwhile President reinstated the petitioner into service without furnishing such document.

b. The 3rd respondent failed to consider that after elected the new President he issued another charge memo containing more or less same charges, in this connection also the petitioner made request to furnish documents to submit his explanation, but without furnishing any documents he proceed further, since the petitioner is under suspension, hence he could not collect materials from the 3rd respondent.

c. The 3rd respondent failed to consider that the 1st charge memo keeping idle and another charge memo issued by the another President the change of Management cannot issue another charge memo let them decide the charge memo after submitting the petitioner's explanation and the 3rd respondent can issue additional charges along with the 1st charge memo, but he cannot issue another charge memo by suppressing the 1st charge memo."

4. This Court has gone through the grounds as extracted above and also the materials placed on record.

5. The contention of the learned counsel for the petitioner that same set of charges were once again repeated in the second charge memo dated 18.08.2018, is factually incorrect. In fact, the third respondent states that a fresh cause of action arose in view of inspection carried out under Section 82 of the Tamil Nadu Co-operative Societies Act. In

fact, in the second charge memo which is impugned in the writ petition, other charges were added which were not mentioned in the earlier charge memo. Even otherwise, this Court is unable to appreciate as to how a writ petition challenging the charge memo, would be entertained on the basis of the so called legal grounds raised by the writ petitioner. No worthy grounds have been raised compelling this Court to interfere with the charge memo.

6. Merely because earlier charge memo was issued, cannot be the reason to interfere with the second charge memo and stall further disciplinary action to be initiated against the petitioner. This is more so, when petitioner is facing serious allegations of misappropriation. If the petitioner has reason to believe that he is innocent, and the second charge memo, is not maintainable, it is always open to him to convince the Disciplinary Authority and can come out unscathed. Instead of going through the regular process of disciplinary proceedings, the petitioner has directly approached this Court by invoking its extraordinary remedy under Article 226 of Constitution of India.

7. In the above circumstances, this Court is of the considered view that the writ petition is too premature and the same is not maintainable and the same is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm/mrm
To

1. The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
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Thiruvannamalai District.
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Cooperative Credit Society,
Vengikkal 606 604.
Thiruvannamalai Taluk & District.

+1cc to Mr.L.P.Shanmuga sundaram, Advocate SR.23119
+1cc to the Government Pleader SR.23184

W.P.No.6494 of 2020

SSI (CO)
CB(17/06/2020)



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