

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.15242 of 2020 and
W.M.P.No.19067 and 19068 of 2020

V.Marks

... Petitioner

Versus

- 1.The Registrar of Co-operative Societies,
170, EVR Periyar High Road,
Kilpauk, Chennai 600 010.
- 2.The Joint Registrar of Co-operative Societies,
Kancheepuram District,
Kancheepuram.
- 3.The Deputy Registrar of Co-operative Societies,
Kancheepuram Circle,
Kancheepuram District.

.... Respondents

PRAYER : petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the second respondent in Na.Ka.No.4342/2020/sapa dated 10.09.2020 and to quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.L.P.Shanmugasundaram, SC

ORDER

This writ petition has been filed to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the second respondent in Na.Ka.No.4342/2020/sapa dated 10.09.2020 and to quash the same.

Page numbers

2. The case of the petitioner is that he was elected as Vice President of Chengalpattu MGR District Public Works Department Employees Cooperative Thrift and Credit Society Ltd., No.GK 210, Kanchipuram, which Society is governed under the provisions of Tamil Nadu Co-operative Societies Act, 1983 and rules made thereunder. The members of the Society are from Public Works Department, TWAD Board and Highways Department. According to the petitioner, he had suffered from Heart Attack in January 2020 and had undergone heart surgery in March 2020. He was finally discharged from Hospital on 10.03.2020.

3. The petitioner was issued with the notice dated 17.08.2020, in regard to certain complaints from depositors that the Society had failed to refund the fixed deposits, when requested. A disciplinary action was also initiated against the Secretary and he was also placed under suspension. Further to the action against the Secretary by placing him under suspension on 04.09.2020, the petitioner who was a Vice President of the Society, was also placed under suspension vide order dated 10.09.2020, by invoking powers under Section 76(A) of the Tamil Nadu Co-operative Societies Act, 1983. The president also was placed under suspension simultaneously. The suspension order dated 10.09.2020 is put to challenge in this writ petition.

4. The learned counsel appearing for the petitioner would submit that invoking the newly introduced Section 76(A), was contrary to the object and reasons for which the provision was introduced and the authority who passed the order of suspension, had not taken into consideration certain legal requirements while invoking the power under the said section.

5. The learned counsel for the petitioner would also elaborate factually that the petitioner herein was not responsible for the complaints made against the Society, in view of his health condition and it was only the Secretary who was entirely responsible for giving rise to the complaints. The learned counsel would further attempt to proceed on the factual explanation in order to justify the challenge to the suspension order.

6. This Court is not inclined to be persuaded by the arguments advanced on behalf of the petitioner. This court does not see any infirmity in invoking the power vested under Section 76(A) of the Act while suspending the petitioner herein. Although a legal argument was sought to be advanced as if the power was illegally and arbitrarily exercised by the authority concerned, this Court does not see any substance in such

Page numbers

arguments and the grounds raised in the affidavit filed in support of the writ petition, in that regard, do not support the challenge at all.

7. This Court is of the considered view that in the guise of challenging the invocation of the power on a seemingly legal ground, the normal order of suspension pending disciplinary action is sought to be assailed as if the suspension order suffer from patent illegality.

8. This Court is of the view that such arguments do not carry much conviction with this Court. On the whole, this Court is not inclined to accept the reasons put forth for challenging the suspension and consequently, it is not open to challenge at this stage. In case, the petitioner is aggrieved by the arbitrary action of the authority, it is always open to him to approach the authority seeking review of the suspension order at the appropriate time. However, it is certainly not open to the petitioner to approach this Court at this juncture and seek to quash the suspension order.

9. In view of the above, the writ petition is dismissed as being without substance and merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsk

To

- 1.The Registrar of Co-operative Societies,
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Page numbers

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate SR.35276
+1cc to Mr.G.Sankaran, Advocate SR.34966
+1cc to the Government Pleader (CO-OP) SR.35022

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PP (CO)
CB (10/12/2020)



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Page numbers