

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NO.19083 OF 2020

AND

W.M.P.NO.23652 OF 2020

B.Lawrence

... Petitioner

-Vs-

1. The Divisional Engineer (H) C&M,
Office of the Divisional Engineer (H),
Kallakurichi Division, Kallakurichi.
2. The Joint Divisional Engineer (H) C&M,
Office of the Joint Divisional Engineer (H),
Thirukoilur, Kallakurichi District.
3. The President,
F.V.122, Villupuram District Highways Department,
Employee Co-operative Thrift and Credit Society Ltd.,
Villupuram District.
4. Jathruth Vanitha ... Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ku.No.187/2020/B-1 dated 14.10.2020 passed by the second respondent herein and the second respondent deducted loan amount from available benefit of Jathruth Vanitha wife of Mr.Antonymsami i.e., the fourth respondent herein and quash the same.

For Petitioner : Mr.K.Gangadaran

For Respondents : Mr.J.Pothiraj, SGP for R1 & R2
Mr.L.P.Shanmugasundaram, SGP for R3

O R D E R

This writ petition has been filed to call for the records pertaining to the impugned order in Ku.No.187/2020/B-1 dated 14.10.2020 passed by the second respondent herein and the second respondent deducted loan amount from available benefit of Jathruth Vanitha wife of Mr.Antonymsami i.e., the fourth respondent herein and quash the same.

2. The case of the petitioner is that he stood surety for his colleague one Mr.Antonymsami for applying loan from the third respondent Credit Society. According to him, the said co-employee had been paying the loan amount every month and unfortunately, from 01.08.2012, he has been missing and his whereabouts are not known as on date. His wife has given a complaint regarding man missing before Thirukovillur Police Station in Crime No.699 of 2018 on 06.08.2018. The case is still pending investigation.

3. As the said Antonymsami has been missing for the last eight years, the loan taken by him was not discharged and the petitioner being a guarantor, the third respondent calculated the total amount payable to the tune of Rs.4,63,101/- and issued show cause notice to the petitioner that why monthly deduction could not be made from his salary vide communication dated 11.03.2020. In response to the same, on behalf of the petitioner, a legal notice has been issued on 03.10.2020.

4. Thereafter, a further communication was issued on 14.10.2020, that the petitioner was liable to pay Rs.5,000 /- every month towards loan amount and directed him to show cause why it could not be deducted from the month of September 2020. The said communication is only a show cause notice and without giving any reply to the same, the petitioner has rushed to his Court.

5. Whatever be the nature of explanation to be given to the show cause notice dated 14.10.2020, it is incumbent upon the petitioner to give his reply first to the show cause notice and only after any final order is passed and adverse to his interest, the petitioner has a cause of action to approach this Court. Till final order is passed, the petitioner is not entitled to approach this Court and seek to stall the second respondent's action in proceeding with the show cause notice. Only when the stand of the petitioner is disclosed in his reply, the second respondent could be in a position to consider his explanation and pass appropriate orders.

6. In the above circumstances, this Court finds that the writ petition is premature and hence cannot be entertained and

dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk

To

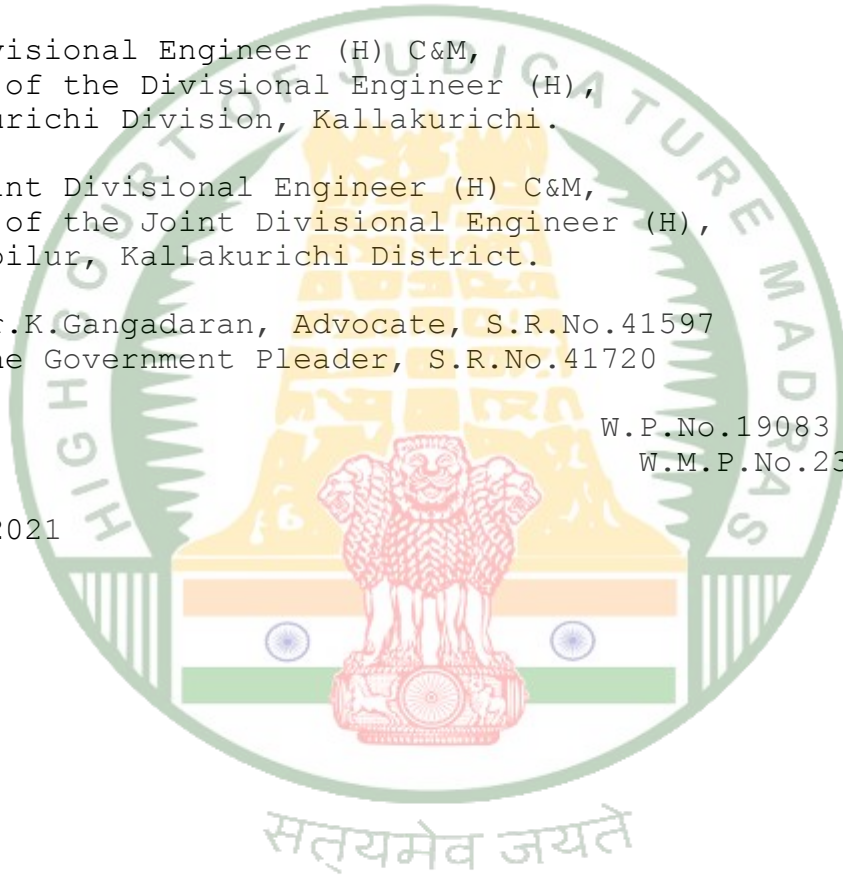
1. The Divisional Engineer (H) C&M,
Office of the Divisional Engineer (H),
Kallakurichi Division, Kallakurichi.
2. The Joint Divisional Engineer (H) C&M,
Office of the Joint Divisional Engineer (H),
Thirukoilur, Kallakurichi District.

+1cc to Mr.K.Gangadaran, Advocate, S.R.No.41597

+1cc to the Government Pleader, S.R.No.41720

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UM(CO)
CS/18/02/2021



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