

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 27608 of 2018  
and  
W.M.P. No. 32142 of 2018

M. Balamurugan

... Petitioner

-vs-

1. The Registrar of Cooperative Societies,  
Kilpauk,  
Chennai - 600 010.
2. The Joint Registrar of Cooperative Societies,  
Salem Region,  
Salem - 636 001.
3. The Deputy Registrar of Cooperative Societies,  
Omalur Circule,  
Omalur,  
Salem District - 636 455.
4. The President,  
The TANGEDCO Mettur Workshop,  
Circle and Thermal Power Station II,  
Employees Cooperative Thrift and Credit Society Ltd.,  
No. S-544,  
Mettur Dam,  
Salem District - 636 401.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Respondents and their subordinates from interfering with the service condition of the Petitioner in terms of settlements dated 24.11.2012 and 23.05.2016 under I.D. Act, 1947, entered into between the Management of the Fourth Respondent Society and its employees.

For Petitioner : Mr. G. Punniakoti

For Respondents : Mr. L.P. Shanmugasundaram,  
Special Government Pleader

O R D E R

(through video conference)

Heard Mr. G. Punniakoti, Learned Counsel appearing for the Petitioner and Mr. L.P.Shanmugasundaram, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has filed this Writ Petition for restraining the Respondents and their subordinates from interfering with the service condition of the Petitioner in terms of settlements dated 24.11.2012 and 23.05.2016 under the Industrial Disputes Act, 1947, entered into between the Management of the Fourth Respondent Society and its employees.

3. On perusal of the materials borne out of the record, it is noticed that a show cause notice dated 07.07.2017 has been issued to the Petitioner for which he has been required to submit his explanation. It is accepted by the Learned Counsel for both sides that the Petitioner has submitted his explanation to that said show cause notice by letter dated 03.08.2017. However, before the concerned authority has taken a final decision in the matter, the present Writ Petition has been filed for the aforesaid relief sought and in pursuance of the interim order dated 23.10.2018 passed by this Court, further proceedings have remained stayed.

4. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in Special Director -vs- Mohammed Ghulum Ghouse [(2004) 3 SCC 440], Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha [(AIR 2012 SC 2250)] and Life Insurance Corporation of India -vs- A. Masilamani [(2013) 6 SCC 530] that a show cause notice cannot be challenged before completion of enquiry and the proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion. Though the Petitioner has not directly challenged the said show cause notice dated 07.07.2017, the relief that the Petitioner seeks is to prevent the Respondents from proceeding further in pursuance of the show cause notice, which cannot be countenanced. At the same time, it is incumbent upon the Fourth Respondent to consider the aforesaid explanation of the Petitioner and if he is not satisfied, an enquiry has to be conducted affording opportunity of personal hearing to the Petitioner to explain his position. The Petitioner is also entitled to produce evidence in support of his contention in that enquiry and cross-examine the witnesses, if any, produced.

5. After carrying out that exercise following the prescribed procedure in consonance with the principles of natural justice, the Fourth Respondent shall deal with each of the contentions raised by the Petitioner and pass reasoned orders on merits and in accordance with law and communicate the decision taken to Petitioner under written acknowledgment. It is made clear that no view has been expressed by this Court on the correctness or otherwise on the merits of the contentions raised by the Petitioner.

The Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Registrar of Cooperative Societies,  
Kilpauk,  
Chennai - 600 010.
2. The Joint Registrar of Cooperative Societies,  
Salem Region,  
Salem - 636 001.
3. The Deputy Registrar of Cooperative Societies,  
Omalur Circule,  
Omalur,  
Salem District - 636 455.

+1cc to Mr.L.P.Shanmugasundaram, Advocate in SR no.27950  
+1cc to the Government Pleader(Co-op) in SR no.28032

KK (CO)  
RV (10/09/2020)

W.P. No. 27608 of 2018

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