



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.6133 of 2015

and

M.P (MD)No.1 of 2015

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S.Murugan

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
(Housing),
4th Main Road, Gandhi Nagar,
Adyar, Chennai - 600 020.

2.The Deputy Registrar of Co-operative Societies,
(Housing),
Tirunelveli Region,
Tirunelveli - 2.

3.The Management / President,
Sattankulam Taluk,
Co-operative Housing Society Ltd.,
TNV-HSG 26, Sattankulam,
Thoothukudi District. .

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Na.Ka.No.2556/2013/sapal, dated 01.12.14, on the file of the 1st respondent and quash the same.

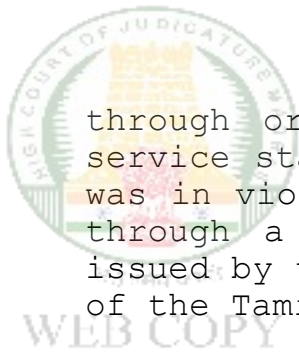
For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.P.Mahendran
Addl.Govt.Pleader

O R D E R

The impugned order passed by the 1st respondent in proceedings, dated 01.12.2014, declining the claim of the writ petitioner to appoint him in the 3rd respondent Co-operative Society, is under challenge in the present Writ Petition.

2. The petitioner was initially appointed as Junior Clerk in the 3rd respondent Co-operative Society, registered under the Provisions of the Tamil Nadu Co-operative Societies Act.

3. The learned counsel for the petitioner states that the petitioner is a differently abled person and he was appointed in the Society, as per the proceedings. However, the 3rd respondent,



through order, dated 20.07.2006, removed the petitioner from the service stating that the initial appointment of the Writ Petitioner was in violation of the cadres strength fixed by the 1st respondent, through a Circular, dated 22.02.2005, and the said Circular was issued by the Registrar of Co-operative Societies, under Section 181 of the Tamil Nadu Co-operative Societies Act.

4. The learned Additional Government Pleader appearing on behalf of the respondents made a submission that when the initial appointment of the petitioner is irregular, the respondents cannot approve the appointment of the petitioner and the 3rd respondent Society had violated the Circular issued by the Registrar, under Section 181 of the Tamil Nadu Co-operative Societies Act, and therefore, the Revision filed by the petitioner was also rejected by the Competent Authority, under Section 153 of the Act.

5. With reference to the facts regarding the Cadres strength, para 4 of the counter reads as under :-

"4. It is submitted that the Registrar of Co-operative Societies (Housing) Chennai, issued Direction under Section 181 of TNCS ACT proceeding RC 1/95/04 dated 22.02.1995 regarding amendment in staff Pattern and pay Structure in respect of special By-Law and framing regulation relating to service conditions of Employees of Taluk Co-operative Housing Societies. As per this circular this Respondent Society will come under category 'B' for which staff pattern was fixed as follows:-

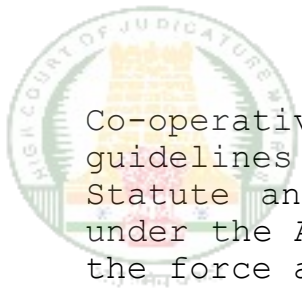
Staff	Category
Secretary	1
Accountant / Manager	1
Clerk / Supervisor	1
Typist cum Clerk	1
Office Assistant	1

1

"

6. The learned counsel for the petitioner reiterated that regarding the cadres strength, even if some mistake is committed by the Management, the petitioner cannot be penalized. Thus, the petitioner is entitled to be reinstated in service.

7. This Court is of the opinion that when the initial appointment is irregular or illegal, then, the question of grant of confirmation would not arise. All appointments are to be made strictly in accordance with the Rules as well as the instructions issued under the Statute. In the present case, the Registrar, by invoking the powers under Section 181 of the Act, in order to maintain uniformity and to avoid malpractices and illegalities in



Co-operative Societies, issued certain guidelines and such guidelines are to be construed, as guidelines issued under the Statute and binding on all the Co-operative Societies, registered under the Act, across the State. Thus, the said Circular are having the force and it is to be enforced by all concerned.

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8. Admittedly, the initial appointment of the Writ Petitioner was made beyond the cadres strength approved by the Competent Authority under the Provision of the Act and therefore, the initial appointment of the Writ Petitioner was irregular. The irregularity occurred in the appointment cannot be cured and therefore, the order impugned passed by the Competent Authority under Section 153 of the Act and the Circular issued by the Registrar under Section 181 of the Act, are in consonance with the Provisions of the Act

9,. This being the factum established, the relief, as such sought for in the present Writ Petition, cannot be granted and the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

- 1.The Registrar of Co-operative Societies,
(Housing),
4th Main Road, Gandhi Nagar,
Adyar, Chennai - 600 020.
- 2.The Deputy Registrar of Co-operative Societies,
(Housing),
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Tirunelveli - 2.
- 3.The Management / President,
Sattankulam Taluk,
Co-operative Housing Society Ltd.,
TNV-HSG 26, Sattankulam,
Thoothukudi District. .

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-23751[F] dated 02/12/2020)

+1 CC to M/s.SPL GP (SR-23655[F] dated 02/12/2020)

W.P. (MD)No.6133 of 2015

01.12.2020

SJ(CO)

KB(10.12.2020) 3P 6C

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