



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.02.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD)Nos.18331 of 2018 & 5324 of 2019

and

W.M.P. (MD)Nos.16205 & 16206 of 2018 and 4239 & 4240 of 2019

- R.Veda Nayaki ... Petitioner in both Wps
/vs./
- 1.The District Registrar,
Cooperatives, Madurai.
 - 2.The Sub-Registrar (Dairy),
Dindigul.
 - 3.The Administrator,
M.S.158, Natham Kovilpatti,
Milk Producers Co-operative Society,
Natham Kovilpatti, Natham, Dindigul District.
 - 4.Annaikutti, Secretary,
M.S.158, Natham Kovil Patti,
Milk Producers Co-operatives Society,
Natham Kovilpatti,
Natham, Dindigul District. ... Respondents 1 to 4 in both Wps
 - 5.Vaidyanathan,
Deputy Secretary,
M.S.158, Natham Kovil Patti,
Milk Producers Co-operatives Society,
Natham Kovilpatti,
Natham, Dindigul District. ... Respondent No.5 in W.P. (MD)No.5324
of 2019

PRAYER in W.P. (MD)No.18331 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in Resolution (order) dated 15.06.2018 of the 3rd respondent and quash the same and consequently directing the respondents to promote the petitioner as Secretary.

PRAYER in W.P. (MD)No.5324 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in Na.Ka.No.285/E3/2018 dated 03.03.2018 and Na.Ka.No.1143/E3/2018 dated 11.06.2018 of the 2nd respondent and subsequently direct the respondents 1 to 3 to promote the petitioner as Secretary for 3rd respondent Society.



For Petitioner : Mr.T.S.Mohamed Mohidheen
(in both WPs)
For R-1 to R-3 : Mr.M.Jeyakumar
Additional Government Pleader
(In both petitions)

For Respondent 4 and 5
in WP(MD)No.5324 of 2019
For Respondent 4 in
WP(MD)18331 of 2018 : Mr.R.Saravanan

COMMON ORDER

The grievance of the petitioner is that the second respondent herein through his proceedings has promoted the fourth respondent on 01.01.2018 with effect from 04.02.2006. The petitioner claims that he is senior to the 4th and 5th respondents herein and therefore, the revised revision of the petitioner's seniority by reverting him to a lower place is illegal.

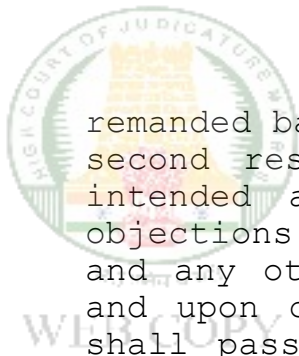
2. On the contrary, the learned counsel for the respondents 4 and 5 would submit that as per the appointment made, the respondents 4 and 5 are not juniors to the petitioner and as such, there is no infirmity in the order passed by the second respondent herein.

3. The learned Special Government Pleader would refer to the impugned order and submit that the second respondent had followed the procedure contemplated under regulations, while passing the impugned order and therefore, there is no infirmity in the said order.

4. One of the predominant grounds raised by the petitioner is that prior to the passing of the impugned order, the petitioner was not put on notice and therefore, he was deprived of raising his objections. It is not in dispute that prior to passing of the impugned order, no show cause notice was issued to the petitioner or to any other person who may be affected in view of the impugned order.

5. When the petitioner is aggrieved against the impugned order passed and his seniority is claimed to have been brought below his juniors, in all fairness, the second respondent ought to have called for the objections of the petitioner, in the absence of which, it would amount to violation of the principles of natural justice. On this sole ground, the matter requires to be re-examined by the second respondent, after giving due opportunity to the petitioner, as well as the respondents 4 and 5 and any other person, who may be affected in this course of action. Since this Court intends to remand back the matter to the second respondent, the other grounds raised by the petitioner are left open to be raised before the second respondent, when the matter is re-examined.

6. In the light of the above observations, the matter is



remanded back to the second respondent for fresh consideration. The second respondent shall issue a prior show cause notice on the intended action of fixing the seniority and thereby, call for objections from the petitioner as well as the respondents 4 and 5 and any other person, who may be interested in the subject matter and upon consideration of their objections, the second respondent shall pass a detailed order, on its own merits and in accordance with law. During the course of such proceedings, the second respondent shall extend due opportunity to the petitioner as well as the 4th and 5th respondents herein. The second respondent shall also endeavour to complete the proceedings as expeditiously as possible, in any event within a period of three months from the date of receipt of a copy of this order.

7. It is now stated that the 4th and 5th respondents are now continuing to be the Secretary and Assistant Secretary of the third respondent respectively. Since the 4th and 5th respondents have been continuing in their respective posts from the year 2018, it would not be appropriate to disturb their positions till a finality is arrived at by the second respondent herein. In these circumstances, the impugned orders in W.P.(MD)Nos.18331 of 2018 and W.P.(MD)No.5324 of 2019, shall be kept in abeyance. It is made clear that till the completion of the procedures by the second respondent, as ordered by this Court, the respondents 4 and 5 shall not be disturbed.

8. This Writ Petition are disposed of accordingly. No costs. Consequently connected WMPs are closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

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To

1.The District Registrar, Cooperatives, Madurai.

2.The Sub-Registrar (Dairy), Dindigul.

3.The Administrator,

M.S.158, Natham Kovilpatti,

Milk Producers Co-operative Society,

Natham Kovilpatti, Natham, Dindigul District.

+2 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-6704[F],6703 dated 17/02/2020)

+1 CC to M/s.SPL.GP (SR-6782[F] dated 18/02/2020)

+2 CC to M/s.R.SARAVANAN, Advocate (SR-6895[F] dated 18/02/2020)

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17.02.2020

KK/06.03.2020/3P-9C