

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4223 of 2021
and W.M.P.No.4824 of 2021

(Heard through VC)

R. Kumar

... Petitioner

-vs-

1.The Deputy Registrar,
Tamil Nadu Co-operative Societies,
Krishnagiri Region,
Krishnagiri.

2.The President / Board of Directors,
No.KK 45, Sapparthy, PACCS,
Sappram, Pagaimuddlu,
Krishnagiri District - 635 106.

3.The Enquiry Officer,
Joint Registrar Co- Operative Societies (Retired),
C/op. No.KK 45, Sapparthy PACCS,
Sappram, Pagaimuddlu,
Krishnagiri District - 635 106.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order made in Na.Ka.No.02/2019 - 2020/O.Na dated 16.12.2020 issued by the 2nd respondent and quash the same and consequently direct the respondents 1 and 2 to pay permitted ratio of subsistence allowance, including arrears with effect from 26.06.2019 till completion of enquiry and to furnish the copy of the documents more particularly mentioned by the petitioner in his representation dated 04.01.2020 to the 2nd respondent or in alternative, permit the petitioner's Advocate to peruse the documents and take notes of the contents in the document so as to enable the petitioner to submit his complete explanation to the charge memo dated 23.12.2019 made in Na.Ka.No.02/2019-2020/O.Na issued by the 2nd respondent.

For Petitioner : Mr.S.Muthuselvan
For Respondent -1 : Mr.L.P.Shanmugasundaram
Special Government Pleader
For Respondent -2 & 3: Mr.M.S.Palaniswamy

O R D E R

The petitioner has come forward with the present writ petition challenging the order made in Na.Ka.No.02/2019 - 2020/O.Na dated 16.12.2020 issued by the 2nd respondent and consequently direct the respondents 1 and 2 to pay permitted ratio of subsistence allowance, including arrears with effect from 26.06.2019 till completion of enquiry and to furnish the copy of the documents more particularly mentioned by the petitioner in his representation dated 04.01.2020 to the 2nd respondent or in alternative, permit the petitioner's Advocate to peruse the documents and take notes of the contents in the document so as to enable the petitioner to submit his complete explanation to the charge memo dated 23.12.2019 made in Na.Ka.No.02/2019-2020/O.Na issued by the 2nd respondent.

2. Mr.L.P.Shanmugasundaram, learned Special Government Pleader takes notice on behalf of the respondent No.1. Mr.M.S.Palaniswamy, learned counsel takes notice on behalf of the respondent Nos.2 & 3.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. When the matter is taken up for hearing, Mr.M.S.Palaniswamy, learned counsel appearing for the respondent Nos.2 & 3 submitted that due opportunity has been given to the petitioner for collection of available documents and that the Respondents 2 and 3 also permitted him to take notes of the documents for the purpose of his effective defense in the enquiry. It is further submitted by the learned counsel that at no point of time, the Respondents have deprived payment of subsistence allowance to the petitioner.

5. This Court, at this stage, is not inclined to go into the various aspects of the averments made in the affidavit and is also not inclined to interfere with the impugned order dated 16.12.2020. Instead the petitioner is permitted to approach the concerned Authorities to collect the relevant documents applicable to the charges and also take notes of the same. The handing over of the documents and taking notes of the documents, as mentioned in the impugned order shall be videographed, as the

conduct of the petitioner appears to be not bonafide and in a clandestine manner, he is trying to protract the proceedings. The charge against the petitioner is very serious and he, along with other persons, had defalcated several Crores of money.

6. In fine, the petitioner is permitted to collect the documents relevant to the charges and also take notes of it (other than the one already collected and notes taken), as, according to the Respondents, the aforesaid opportunity had already been provided to the petitioner. On completion of the above formalities, the Respondents are directed to conduct the enquiry on a day-to-day basis without adjourning the matter beyond seven working days at any point of time, as per the proceedings impugned in the writ petition, and final orders be passed after payment of subsistence allowance in accordance with Rules. However, it is needless to mention that it is open to the respondents to deprive subsistence allowance to the petitioner, if,

- i) he is not staying in the Head Quarters as per the instruction given in the suspension order; and
- ii) he is gainfully employed.

6. Last but not least, the petitioner can approach the appropriate Authority or this Court, if any remedy is available, only after the final orders are passed in the enquiry proceedings and at no point of time he is entitled to knock at the doors of either this Court or any authorities to stall the enquiry proceedings.

7. With the above direction, the writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

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Sub Assistant Registrar

rsi

To:

- 1.The Deputy Registrar,
Tamil Nadu Co-operative Societies,
Krishnagiri Region,
Krishnagiri.

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2.The President / Board of Directors,
No.KK 45, Sapparthy, PACCS,
Sappram, Pagaimuddlu,
Krishnagiri District - 635 106.

3.The Enquiry Officer,
Joint Registrar Co- Operative Societies (Retired),
C/op. No.KK 45, Sapparthy PACCS,
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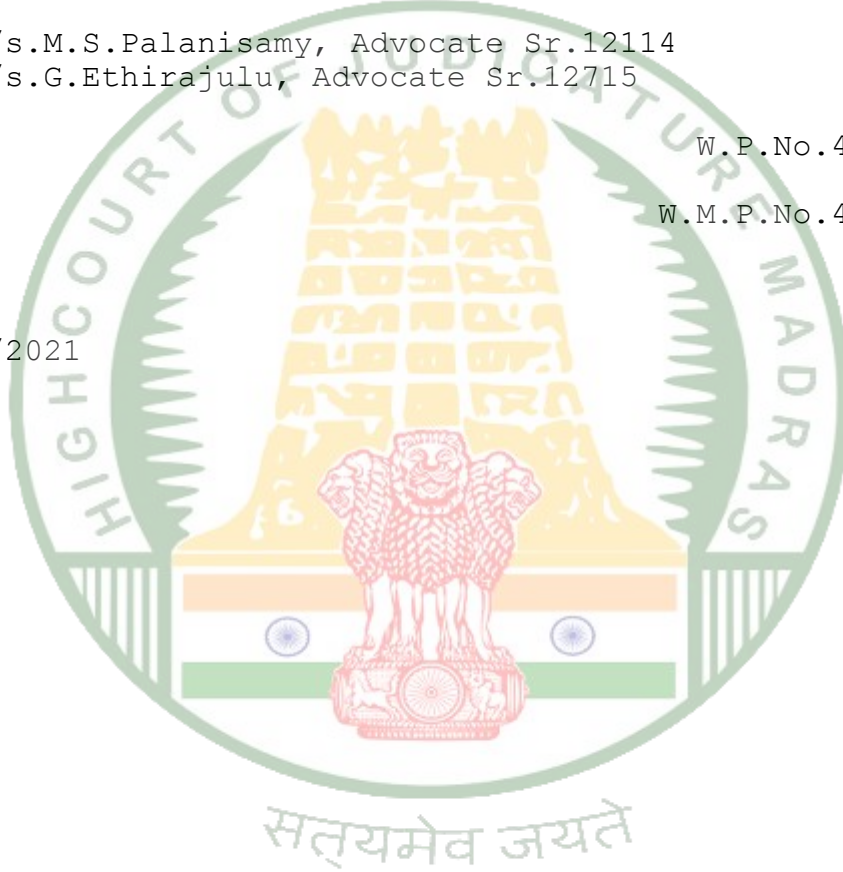
+1cc to M/s.M.S.Palanisamy, Advocate Sr.12114

+1cc to M/s.G.Ethirajulu, Advocate Sr.12715

W.P.No.4223 of 2021
and

W.M.P.No.4824 of 2021

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