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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P No.10298 of 2021

F.V.107, Villupuram Educational District
School Employees Cooperative
Thrift and Credit Society Ltd.
Rep. by its President,
K.Duraisamy, M/45,
S/o.S.Krishnan,
No.2/1023, V.G.P. Nagar West,
Vazhudharedy,
Villupuram - 605 401.

...Petitioner

Vs.

1. The Joint Director of School Education
(Personnel), DPI Compound,
College Road, Chennai 600 006.
2. The Joint Registrar of Cooperative Societies,
Villupuram Region, Villupuram,
Villupuram District.
3. The Deputy Registrar of Cooperative Societies,
Villupuram Circle, Villupuram,
Villupuram District.
4. The Chief Educational Officer,
Villupuram,
Villupuram District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 2 and 3 to proceed further in pursuant to the communication issued by the 3rd Respondent in Na.Ka.1679/2020/Ma.Va dated 07.09.2020.

For Petitioner : Mrs.R.Hemalatha
for C.Prakasam

For Respondents : Mr.A.Selvendiran
Government Advocate



ORDER

This writ petition has been filed for the issue of a writ of Mandamus directing the respondents 2 and 3 to proceed further and conduct an enquiry and pass orders, within the time frame fixed by this Court with regard to the loan amounts that are over due from the borrowers and payable to the petitioner society.

2. The petitioner had earlier approached this Court and filed WP No.4826 of 2020 and this Court disposed of the writ petition by an order dated 26.02.2020. The relevant portions in the order are extracted hereunder :-

2. The case of the petitioner is that he is the President of the petitioner society and teachers and staffs belonging to various educational departments have borrowed loans from the petitioner society. The loan has to be re-paid by way of deduction from the salary of those teachers and staffs.

3. The grievance of the petitioner is that no deduction is being made from the salary of the teachers and staffs and as a result of the same, the loan amount is not being re-paid back to the society.

4. This was brought to the notice of the first respondent and the first respondent by his proceedings dated 22.08.2019 has directed the fourth respondent to immediately take action to ensure that the loan amount is re-paid back to the society by deducting from the monthly salary of the concerned teachers and staffs. Since this direction was not complied with by the fourth respondent, the present writ petition has been filed before this Court.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6. It is clear from the proceedings of the first respondent that a loan amount has been taken by teachers and staffs belonging to education department from the petitioner society. The same used to be re-paid back by way of deduction from their monthly salary. The competent authority to execute the same is the fourth respondent. Since the re-payment stopped and no steps were taken to deduct from the monthly salary, the petitioner society had made a representation to the first respondent. The first respondent by proceedings dated 22.08.2019 has directed



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the fourth respondent to immediately start the process by deducting the amount from the salary of the teachers and staffs and re-pay it to the petitioner society. The fourth respondent is bound to comply with the said direction given by the first respondent. Since the same has not been done, the petitioner who is the President of the society is now constrained to approach this Court.

7. This writ petition is disposed of with the direction to the fourth respondent to comply with the direction issued by the first respondent by proceedings dated 22.08.2019 and start the process of deducting the amount from the monthly salary of the teachers and staffs in order to re-pay back the loan to the petitioner society. This process shall be commenced by the fourth respondent forthwith. The petitioner is directed to make a fresh representation to the fourth respondent along with a copy of this order. A copy of the same shall be marked to the first respondent.

3. The learned counsel for the petitioner submitted that pursuant to the orders passed by this Court, a representation was made to the respondents 2 and 3 and the 3rd respondent by communication dated 07.09.2020, informed that the Inspection officers will be appointed and the enquiry will be conducted and action will be taken. Since there was no follow up thereafter, the present writ petition has been filed before this Court seeking for appropriate directions.

4. The 3rd respondent has filed a counter affidavit in this case. Paragraph 6 of the Counter affidavit is extracted hereunder :-

6. With regard to averments contained in para 4 of the affidavit, it is submitted that there are 32 Employees Co-operative Thrift and Credit Society in Villupuram District, of which 30 are functioning in administrative control of 3rd respondent. In 2nd respondent's pro No.2305/2020/Ma.Va dated 01.07.2020 had ordered 100% verification of loans issued by all the Employee's Co-operative Thrift and Credit Societies in Villupuram District. In the instant case, a team consists of Co-operative Sub Registrar / Field Officer Tiruvennainallur Block [for the brevity the "FO"] (working under the control of Deputy Registrar of Co-operative societies, Thirukoilur Circle, Villupuram District), Two circle supervisors (Vallam and Olakur Circle) of Villupuram District Central Co-op Bank, Villupuram District have been ordered to undertake



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100% verification of loans issued by the Society for the period from 01.04.2018 to 31.03.2020. The FO's son got infected by Covid -19 and the FO had quarantined himself and was on leave from 15.09.2020 to 13.09.2020. From 01.11.2020 to 11.12.2020, the FO engaged in interview committee for selection of PDS shop salesman and from 02.01.2021 to 25.01.2021, the FO was entrusted with supervision of Pongal gift hamper as announced by the Government of Tamil Nadu. Subsequently, from 10.02.2021 to 19.02.2021, the FO engaged in preparation of beneficiaries list for Loan waiver scheme as announced by the Government of Tamil Nadu and participated in various meeting conducted by the higher officials apart from original regular FO work. Under these circumstances, the FO is unable to undertake 100% verification work. However the FO requested other team members to undertake 100% verification work. However the FO requested other team members to undertake 100% verification work on 03.05.2021 and 05.05.2021. It came to knowledge of the FO that one Circle supervisor / Team member got infected by Covid - 10 and another circle Supervisor/Team member had been transferred from the post. However, the FO herself managed to undertake 100% verification work on 03.05.2021 and 05.05.2021. Then submitted interim report on 13.05.2021. In the said report, the FO has stated that 21 members loans became over due to the tune of Rs.12,60,279/-. She assured to submit full-fledged report soon after other team members resume duty and after conducting property enquiry with borrowers.

i) At this juncture, it is worth to mention here that the petitioner society had requested to undertake 100% verification of loan only on 28.08.2020 but the 2nd respondent already ordered 100% verification on 01.07.2020 itself. By law No.25, of the society specifies the powers and duties of the Board. As per the above said bylaw provision No.25, (Duties - i) the Board shall manage the affairs of the society in accordance with the provisions of the Act, the Rules and these bylaws. In accordance with the duties cast upon the board, the president/petitioner herein is responsible for taking action for timely recovery of issued loans. There are 1 employee in the society and it is the first and foremost duty cast upon the President /Petitioner herein to extract work from the employees. It is not known why the petitioner wishes that departmental inspection officials have to visit and in the event of non-visit the society could not



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proceed by recovery of the loan amount. The petitioner need not wait for report of inspecting officer at all. The President /Petitioner is the employer in respect of the society and he had every right as well as responsibility / accountability cast upon the President to take action on overdue loans. Act, Rules and bylaws and regulations are there and being the President of the society and Duties cast upon the Board as per Bylaw No.25, the petitioner ought to have file Arbitration claim under Section 90 of the Act, 1983 and got decreed and file Execution petition to recover the overdue loan amount from OD borrowing members. But the petitioner miserably failed to do. Instead he filed this writ petition through which he misused his power and utilised the members fund unnecessarily. Conducting 100% verification of loan is one of the work and the inspecting officials undertake verification apart from other statutory and other administrative works assigned to them.

5. The Deponent of the Affidavit Mr.V.Ramadoss, was present in the Court at the time of hearing. The learned Government counsel on instructions submitted that presently one Mrs.S.Indra has taken charge as the Deputy Registrar, Incharge. The learned counsel submitted that an interim report has already been submitted on 13.05.2021 and if some more time is given, they will complete the inspection and file a final report before the 2nd respondent. Thereafter, the 2nd respondent will proceed to take action in accordance with law.

6. Taking into consideration the counter affidavit filed by the 3rd respondent and also the submissions made by the learned Government Counsel, there shall be a direction for completion of the inspection / enquiry, within a period of four weeks from the date of receipt of copy of this order and a final report shall be submitted before the 2nd respondent. The 2nd respondent on receipt of the same, shall proceed further in accordance with law and take necessary action within a period of four weeks thereafter.

7. This writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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To

1. The Joint Director of School Education
(Personnel), DPI Compound,
College Road,
Chennai 600 006.
2. The Joint Registrar of Cooperative Societies,
Villupuram Region, Villupuram,
Villupuram District.
3. The Deputy Registrar of Cooperative Societies,
Villupuram Circle, Villupuram,
Villupuram District.
4. The Chief Educational Officer,
Villupuram,
Villupuram District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.38715

+1cc to the Government Pleader, S.R.No.38477

W.P No.10298 of 2021

RSV[co]
NSK 13/09/2021