



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18 .03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.204 of 2012

and

M.P(MD)Nos.2 of 2012, 1 & 2 of 2013 & 1 of 2015

T.V.Krishnan,
General Secretary,
Tirunelveli Regional Taluk Co-operative
Housing Society Employees Union,
1/92, Sheik Madar Nagar,
Gandhi Nagar Post,
Tirunelveli Taluk.

... Appellant/Petitioner

Vs.

1.The Deputy Registrar (Housing),
Tirunelveli Region,
Tirunelveli - 627 002.

2.The Special Officer,
Radhapuram Taluk Co-operative Housing Society,
Perumal Sannathi Street,
Radhapuram,
Tirunelveli District.

3.The Special Officer,
Tirunelveli Taluk Co-operative Housing Society,
121, Shenbagampillai Double Street,
Tirunelveli - 627 006.

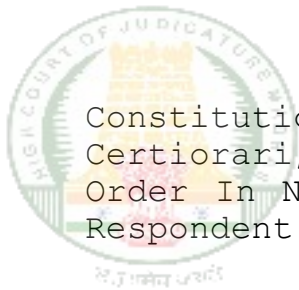
4.The Special Officer,
Sankarankovil Taluk Co-operative Housing Society,
147, North Car Street,
Sankarankovil,
Tirunelveli District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 20.10.2011 made in W.P(MD)No.11014 of 2008 on the file of this Court.

Prayer in WP(MD). 11014/ 2008 :

Writ Petition is filed under Article 226 of the
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Constitution of India, praying this Court To issue a writ of Certiorari, calling for the records relating to the proceedings in Order In Na.Ka.No.3873/08/E1 dated 28.11.08 on the file of the 1st Respondent and quash the same.

For Appellant : Mr.G.Prabhu Rajadurai
For R - 1 : Mr.K.P.Narayana Kumar
Special Government Pleader
For RR 2 to 4 : No appearance

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is filed by the General Secretary of Tirunelveli Regional Taluk Co-operative Housing Society Employees Union, challenging the order, dated 20.10.2011 passed by the learned Single Judge in W.P(MD)No.11014 of 2009, refusing to quash the proceedings of the first respondent.

2.The writ petitioner, who is the appellant herein, is in Association of the employees of the Co-operative Societies, who are shown as respondents 2 to 4. It is stated that separate settlements have been arrived between the employees of the writ petitioner's Association belonging to the respondents 2 to 4 Societies regarding their pay and other allowances under Section 18(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act, 1947'). The first respondent, who is the Deputy Registrar (Housing), had initiated surcharge proceedings under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act, 1983) on the ground that there was a loss of revenue in view of the above referred settlements. As revenue loss has been suffered by the Societies, the said settlements were held to be invalid. Therefore, the first respondent by his order, dated 28.11.2008, directed the Special Officers of the Housing Societies to deduct from the salary of the employees the revised salary with effect from October 2008. The said order was challenged in the Writ Petition, which was confirmed by the learned Single Judge and the above Writ Appeal is filed, challenging the same.

3.The only question that arose for consideration is whether the order of the first respondent to recover the revised salary from the employees through the Special Officers is correct or not?

4.The learned counsel appearing for the appellant would contend that the order impugned in the Writ Petition is passed without application of mind and the settlement is binding on both the employer and the employee, hence, recovery cannot be made.



5.The learned Special Government Pleader appearing for the first respondent would contend that the writ petitioner, who is only a Secretary of the Employees Union, has no *locus-standi* to challenge the order of the first respondent. It is further contended that the settlement pertaining to the Co-operative Societies are not equated to the settlement entered into between the Management and the private employers and their employees.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.As the Co-operative Societies were given a liberal and irrational hike in the pay for the employees and have been entered into a wage settlement under Section 18(1) or Section 12(3) of the Act, 1947, resulted in heavy loss to the Societies. The settlements contemplated under the above said provisions of law were misused with utter disregard of the statutory limits prescribed by the Co-operative Societies Act and Rules. The Settlements under Section 18 (1) of the Act, 1947 were entered into treating the Societies on par with the commercial establishment is not legally enforceable.

8.The learned Single placed reliance on a Judgment of the Division Bench in **Tamil Nadu Vatta Kooturavu Veetu Vasathi Sangangalin Anaithu Paniyalargal Madya Sangam, rep. by its General Secretary Vs. Deputy Registrar of Co-operative Societies (Housing), Cuddalore Circle and others** reported in **2008 (2) LLN 236** and dismissed the Writ Petition.

9.Section 181 of the Act, 1983, provides for powers to the Registrar to give directions in the public interest etc. Based on the said Section, the first respondent had issued directions having satisfied that in public interest, the Settlements arrived at between the employees and the Societies are detrimental to the interests of its members and passed the impugned order. The said order passed by the first respondent cannot be said to be bad so long as the powers are exercised keeping in mind the purport and intend of the said provision and with a view to fulfil the statutory obligations prescribed therein. In the Division Bench Judgment referred to above, it has been held that contrary to the provisions contained in the Act and the Rules, the Societies instead of adhering to the directions issued by the Registrar of Co-operative Societies under Section 181 of the Act, 1983, were entering into various settlements with their employees under the provisions of the Industrial Disputes Act. The Division Bench had further held in paragraph Nos.15 and 16, which reads as follows:-

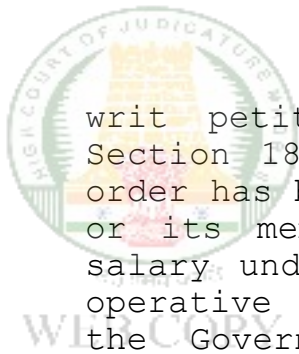
"15. By no stretch of imagination, the said Rule can be said to be either conflicting with the provisions of I.D. Act or introduced with any other



ulterior motive to defeat the lawful rights of the employees of any of the registered societies. The purport of the Rule is to ensure that a registered society does not become defunct or unwieldy and any of the registered societies should not be allowed to be closed due to dearth of funds by mismanagement. Therefore, the constitution of the Committee for formulating the common wage structure for the employees of the registered Co-operative Societies by G.O.Ms.No. 289, dated 18.12.1998 and the subsequent G.O. Ms. No. 166, dated 16.08.2000, were all in furtherance of the fulfilment of the above objective of the State Government.

16. In the light of the above factors, we are convinced that the orders impugned in the writ petitions issued by the first respondent directing the respective co-operative societies to cancel the settlements which came to be arrived in contravention of the directions issued by the Registrar of the Co-operative Societies, dated 16.10.1997 issued under Section 181 of the Act 1983 by invoking Section 166 of the Act 1983 are perfectly justified. We are also convinced that the Division Bench decision in Tiruchirapalli Hiruthayapuram Co-operative Bank Employees Union v. Joint Registrar of Co-operative Societies, Tiruchirapalli (vide supra), upon which heavy reliance was pieced upon by the appellant does not in any way support the stand of the appellant. On the other hand, we can only state that the subsequent direction issued by the Registrar of Co-operative Societies, dated 16.10.1997 by invoking the powers vested in him under Section 181 of the Act 1983 was validly made and the impugned orders dated 12.03.1999 and 08.04.1999 passed in pursuance of the said directions of the Registrar, dated 16.10.1997 as well as by applying Section 166 of the Act 1983 were all in tune with the observations made in the above referred to Division Bench decision and therefore, we do not find any scope to interfere with the impugned orders. Moreover, so long as the directions issued by the Registrar, dated 16.10.1997, under Section 181 of the Act 1983 remains in force, the subsequent directions and the impugned orders issued by the first respondent by invoking Section 166 of the Act 1983 were well within the powers and jurisdiction of the first respondent."

10.As held in the above referred Division Bench Judgment, the
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writ petitioner had not challenged the directions given under Section 181 of the Act, 1983 and only the consequential recovery order has been challenged in this Writ Petition. The writ petitioner or its members cannot claim any absolute privilege to draw the salary under the guise of settlement as the employees of the Co-operative Societies cannot be equated on par with the employees of the Government or any other commercial establishment and the directions given by the first respondent is in no way be deemed to have infringed the fundamental rights of the writ petitioner.

11.In the light of the above discussions, there is no infirmity in the order passed by the learned Single Judge and we are also in agreement with the same and accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RTI)

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Sub Assistant Registrar(CS)

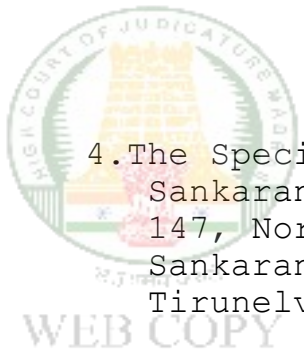
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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Deputy Registrar (Housing),
Tirunelveli Region,
Tirunelveli - 627 002.
- 2.The Special Officer,
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4.The Special Officer,
Sankarankovil Taluk Co-operative Housing Society,
147, North Car Street,
Sankarankovil,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-11985[F] dated 17/03/2021)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-12410[F] dated
19/03/2021)

W.A(MD)No.204 of 2012
18.03.2021

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