



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE M. S. RAMESH

W.P. (MD) No.6613 of 2020

and

W.M.P. (MD) No.5962 of 2020

WEB COPY

T.Vivekanandan

...Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Ramanathapuram Region, Ramanathapuram.

2.The Deputy Registrar of Co-operative Societies,
Ramanathapuram Circle, Ramanathapuram.

3.The President,
N.N.181, Anjukottai Primary Agricultural
Co-operative Credit Society,
Anjukottai, Thiruvadanai,
Ramanathapuram District.

... Respondents

PRAYER: 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 order passed by the third respondent dated nil, proceedings nil and quash the same as illegal and unconstitutional and consequently direct the respondents to reinstate the petitioner as "Secretary" in the third respondent Society with all monetary benefits.

For Petitioner : Mr.S.Sukumar

For Respondents : Mr.P.Mahendran

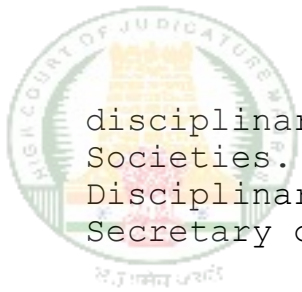
Additional Government Pleader

O R D E R

Heard Mr.S.Sukumar, learned counsel appearing for the petitioner and Mr.P.Mahendran, learned Additional Government Pleader appearing for the respondents.

2. The petitioner is aggrieved against the order suspending him from the post of Secretary of the respondent Co-operative Society.

3. The predominant ground raised by the petitioner is that no prior approval was obtained from the Disciplinary Action Review Committee before the suspension order was passed. As per the proceedings of the Joint Commissioner of Co-operative Societies in Na.Ka.No.544/2016/ft, dated, 31.10.2016 the Disciplinary Action Review Committee was constituted for the purpose of taking



disciplinary action against the employees of the Co-operative Credit Societies. The proceeding mandates the prior approval of the Disciplinary Action Review Committee, whenever suspension of the Secretary of the Society is contemplated.

4. While the learned counsel appearing for the petitioner would submit that the third respondent herein had not obtained prior approval of the Disciplinary Action Review Committee, the learned Additional Government Pleader appearing for the respondents would submit that the charges levelled against the petitioner are very serious in nature and therefore, non obtaining of the prior permission can be treated as an exception. The learned counsel for the petitioner further submitted that subsistence allowance has not been paid to the petitioner.

5. When the regulation relating to suspension of the office bearers of a credit society mandates the prior sanction from the Disciplinary Action Review Committee, there can be no deviation or exception from the mandate.

6. The second respondent herein has filed a counter affidavit and in Paragraph No.7 of the same, it is admitted that the prior permission of the Committee was not obtained. In the same counter, the respondents have high-lighted the misappropriation of the petitioner, which was substantiated in the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner's alleged involvement in misappropriation and the consequent proceedings under Section 87 of the Act, are in no way connected with the present impugned order of suspension. If at all the respondents are of the view that the disciplinary action requires to come to a logical conclusion, it is always open to them to do so. Nevertheless, the present Writ Petition is filed only on a limited scope of questioning the Authority of the third respondent, in suspending the petitioner, without prior approval. As observed, the earlier proceedings of the Joint Commissioner of Co-operative Societies in Na.Ka.No.544/2016/கல, dated, 31.10.2016 mandates a prior approval from the Disciplinary Action Review Committee and in the absence of the same, the suspension of the order itself cannot be sustained.

7. In the light of the above observations, the impugned order passed by the third respondent in Na.Ka.No.544/2016/ft, dated, 31.10.2016 is set aside and consequently, the petitioner herein is deemed to have been restored to the post of Secretary in N.N.181, Anjukottai Primary Agricultural Co-operative Credit Society, Anjukottai, Thiruvadanai, Ramanathapuram District.

8. It is needless to point out that incase the petitioner has not been paid with the subsistence allowance during the period of suspension, the respondent concerned herein shall forthwith



release the entire subsistence allowance from the date of non payment till the date of his actual reinstatement within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. In view of the serious charges alleged against the petitioner, the respondents shall endeavour to complete the disciplinary proceedings, as expeditiously as possible, in any event, within a period of three (3) months from the date of receipt of a copy of this order. The petitioner shall also co-operate in the enquiry proceedings.

10. The Writ Petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

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 Joint Registrar of Co-operative Societies,
Ramanathapuram Region, Ramanathapuram.
- 2.The Deputy Registrar of Co-operative Societies,
Ramanathapuram Circle, Ramanathapuram.
- 3.The President,
N.N.181, Anjukottai Primary Agricultural
Co-operative Credit Society,
Anjukottai, Thiruvadanai,
Ramanathapuram District.

+1 CC to M/s.S.SUKUMAR, Advocate (SR-8257[F] dated 02/03/2021)

+1 CC to M/s.SPL GP (SR-8439[F] dated 03/03/2021)

Order made in
W.P. (MD) No.6613 of 2020
02.03.2021

NA (CO)

TR(17.03.2021) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>