



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.7909 of 2021

D.Subramanian

... Petitioner/Petitioner

vs.

1.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-operative Societies,
Madurai.

2.The Deputy Registrar of Co-operative Societies,
Madurai Division,
Madurai.

3.The President,
A.2982 of Pallapatti Primary Agricultural
Co-operative Credit Society,
Pallapatti,
Madurai District.

4.The President,
A.2997, Melavalavu Primary Agriculture
Co-operative Society,
Melavalavu,
Madurai District.

... Respondents/Respondents

(R - 4 is impleaded vide order, dated 23.04.2021
in WP(MD) 7909/2021)

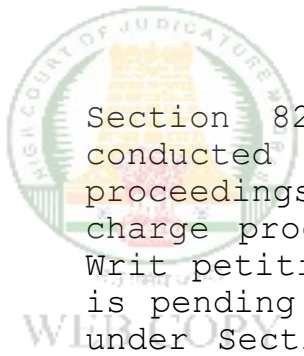
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to directing the respondents 1 and 2 to pay subsistence allowance on the basis of the petitioner representation, dated 10.03.2021.

For Petitioner : Mr.C.Jeganathan
For RR 1 & 2 : Mr.P.Subbaraj
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to direct the respondents 1 and 2 to pay subsistence allowance to him, on the basis of his representation, dated 10.03.2021.

2.According to the petitioner, he was appointed as an Attender in the third respondent Society on 02.06.1988. An inspection, under <https://hcservices.ecourts.gov.in/hcservices/>



Section 82 of the Tamil Nadu Co-operative Societies Act, was conducted and based on the said inspection report, sur-charge proceedings were initiated. The petitioner has challenged the sur-charge proceedings initiated by the second respondent by filing a Writ petition in W.P(MD)No.14852 of 2020 and the said Writ Petition is pending before this Court. The second respondent ordered enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act and issued charge-memo. While so, the petitioner was transferred from the third respondent Society to the fourth respondent Melavalavu Society on 16.07.2019. The Administrator of Melavalavu Society by proceedings, dated 08.10.2020, placed the petitioner under suspension for five months. Even before expiry of five months, the order of suspension was not revoked and the petitioner was not paid subsistence allowance. The petitioner sent a representation, dated 10.03.2021, to the respondents 1 and 2. So far, no order has been passed. Hence, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner relied on the Judgment of the Division Bench of this Court reported in **2021 (1) CTC 465 [Registrar, Co-operative Society and others Vs. M.Elango]** and submitted that the First Bench held that the Secretary of the Society is a cadre employee and he is entitled to subsistence allowance on suspension and submitted that the petitioner is entitled to subsistence allowance and prayed for a direction to the respondents to consider his representation, dated 10.03.2021, for payment of subsistence allowance.

4.The learned Government Advocate appearing for the respondents 1 and 2, on instructions, submitted that the representation of the petitioner, dated 10.03.2021, will be considered by the respondents 1 and 2 within the time frame to be fixed by this Court.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and perused the entire materials available on record.

6.Considering the submission of the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and perusal of the entire materials available on record, it is seen that the petitioner while he was working in the fourth respondent Society, suspended on 08.10.2020 by the respondents. But, he was not paid subsistence allowance. As held by the First Bench of this Court in the Judgment reported in **2021 (1) CTC 465 [Registrar, Co-operative Society and others Vs. M.Elango]**, the petitioner as a Secretary is entitled to subsistence allowance. In view of the ratio in the Judgment referred to above, the first respondent is directed to consider the representation of the petitioner, dated 10.03.2021, in consonance with the above referred Judgment and grant eligible subsistence allowance to the



petitioner within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is disposed of. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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

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+1 CC to M/s.SPL GP (SR-20744[F] dated 30/06/2021)

W.P(MD)No.7909 of 2021
29.06.2021

CM(CO)

LR (19.07.2021) 3P 6C