



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.9195 of 2021

and

W.M.P (MD)Nos.6928 & 8073 of 2021

WEB COPY

R.Duraisamy

... Petitioner

Vs.

1.The Joint Registrar
of Co-Operative Societies
Tiruchirapalli Region,
Tiruchirapalli District.

2.The Deputy Registrar
of Co-operative Societies,
Tiruchirapalli Region,
Tiruchirapalli District.

3.4836 Purathakudi Primary
Agriculture Co-operative
Credit Society Ltd.,
Purathakudi,
Trichy District.

4.K.P.Aralasu

5.K.Chitra

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent, dated 23.04.2021 in proceedings Na.Ka.2589/2020/Po.Pathi, quash the same, as the same is arbitrary, ultra vires, in colorable exercise of powers and with a mala fide intention.

For Petitioner : Mr.R.G.Shankar Ganesh
For R1 to R3 : Mr.P.Subbaraj
Government Advocate

ORDER

This writ petition is filed to quash the impugned order passed by the first respondent, dated 23.04.2021 in Na.Ka.2589/2020/Po.Pathi, as the same is arbitrary, ultra vires, in colorable exercise of powers and with a malafide intention.

2. The petitioner while working as Secretary in the third respondent Society and in-charge of Chinna Anaikaraipatti Primary



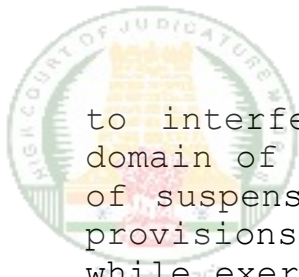
Agricultural Credit Society, was suspended from service, by the impugned order, dated 23.04.2021. The petitioner has come out with the present writ petition challenging the order of suspension.

3. According to the petitioner, he has not committed any misconduct and he has acted only as per Rules and Government Orders. The petitioner while in-charge of Chinna Anaikaraipatti Primary Agricultural Credit Society, found out certain irregularities and gave a complaint, dated 16.02.2021, to the second respondent against one S. Rajalingam, Senior Attendor. At the instigation of said Rajalingam, the second respondent has instructed the third respondent to file an appeal against the judgment in C.M.A(Cs).No.12 of 2017, allowing the Civil Miscellaneous Appeal filed by the petitioner challenging the order of surcharge proceedings passed against him. Only at the instigation of said Rajalingam, the first respondent has passed the impugned order of suspension.

4. The learned counsel appearing for the petitioner extensively referred to various charges levelled against the petitioner in contemplation of disciplinary proceedings and submitted that these allegations are false and levelled against the petitioner only at the instigation of said Rajalingam. The order of suspension is passed with mala fide intention and in colorable exercise of powers and prayed for setting aside the impugned order of suspension by allowing the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record.

6. From the materials available on record, it is seen that the impugned order is passed in contemplation of disciplinary proceedings. The first respondent, in the impugned order, has mentioned the various incidence of alleged irregularities and misconduct committed by the petitioner. It is well settled that an order of suspension can be passed by the competent authority considering the gravity of alleged misconduct and nature of evidence available. Effect on public interest due to the employee's continuation in office is also a relevant and determining factor. The facts of each case have to be taken into consideration, as no formula of Universal application can be laid down in this regard. However, suspension order should be passed only where there is a strong prima facie case against the delinquent and if the charges stand proved, would ordinarily warrant imposition of major punishment, i.e., removal or dismissal from service or reduction in rank etc. Even if a criminal trial or enquiry takes a long time, it is ordinarily not open to the Court



to interfere in case of suspension, as it is in the exclusive domain of the competent authority, who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897 and while exercising such a power, the authority can consider the case of an employee for revoking suspension order, if satisfied that the criminal case pending would be concluded after an unusual delay for no fault of the employee concerned. These principles were laid down by the Hon'ble Apex Court in the judgment reported in **2013(16) SCC 147 [Union of India and another vs. Ashok Kumar Aggarwal]**.

7. The Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291**, held that when suspension is ordered pending criminal case or in contemplation of disciplinary proceedings, if chargesheet or chargememo is not served on the delinquent employee within three months from the date of suspension, the suspension has to be revoked. In the present case, the petitioner is suspended only on 23.04.2021.

8. It seen that the first respondent has suspended the petitioner in contemplation of disciplinary proceedings for the alleged irregularities and misconduct committed by the petitioner. The first respondent has mentioned various misconducts alleged to have been committed by the petitioner. This Court, at this stage, cannot consider various submissions made challenging various allegations made in the suspension order, on merits. Similarly, the contention of the learned counsel appearing for the petitioner that the order of suspension is malafide and in colorable exercise of powers also cannot be considered at this stage, as the allegations against the respondents 1 & 2 is that they are acting at the instigation of one Rajalingam against whom, the petitioner has made a complaint.

9. For the above reasons, considering the facts of the present case in consonance with the principles laid down by the Hon'ble Apex Court in the judgment referred to above, the writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

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

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of Co-Operative Societies
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3.4836 Purathakudi Primary
Agriculture Co-operative
Credit Society Ltd.,
Purathakudi,
Trichy District.

+1 CC to M/s.SPL GP (SR-19900[F] dated 22/06/2021)

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate (SR-20005[F] dated 23/06/2021)

W.P. (MD)No.9195 of 2021
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AS(06.07.2021) 4P 6C