



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.9524 of 2021

and

W.M.P(MD)No.7257 of 2021

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P.Sakthivel

... Petitioner

vs.

1.The Deputy Registrar (Dairying),
Dindigul Collectorate, Dindigul,
Dindigul District.

2.The President,
M.s 257 K.Dharmathupatti Mill Producers Co-op Society,
Dharmathupatti,
Dindigul District.

3.R.K.Supiramani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of suspension passed by the second respondent in the proceedings Nil, dated 30.04.2021 and quash the same.

For Petitioner	: Mr.C.Mayilvahana Rajendran
For R - 1	: Mr.K.S.Selva Ganesan
	Government Advocate
For RR 2 & 3	: Mr.A.R.Sethupathy

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned order of suspension passed by the second respondent, dated 30.04.2021.

2.According to the petitioner, he was appointed as Milk Vendor by the second respondent on 01.03.2015. He was given additional charge on 02.09.2015. Subsequently, the petitioner was promoted as Secretary by the first respondent and regular pay scale was fixed by the first respondent, by proceedings, dated 22.06.2018. The petitioner was working as such in the second respondent Society. The third respondent was elected as President of the second respondent Society in the year 2019 and the third respondent made various illegal appointments in the second respondent Society. The petitioner sent a representation to the first respondent about the illegal appointment made by the third respondent. Hence, the third respondent did not permit the petitioner to sign the attendance register and compelled the petitioner to hand over the register. In such circumstances, the petitioner sent a representation, dated



05.06.2020, to the first respondent. Since the petitioner is not co-operating with the third respondent for his illegal activity, the second respondent, by impugned order, suspended the petitioner from 30.04.2021. Challenging the same, the petitioner has come out with the present Writ Petition.

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3.The learned counsel appearing for the petitioner submitted that the first respondent is the competent authority to initiate disciplinary proceeding against the petitioner and the second respondent has no power to pass the impugned order of suspension. The impugned order of suspension was passed with malafide intention. Before passing the impugned order, no enquiry was conducted and no opportunity was given to the petitioner and prayed for setting aside the order of suspension.

4.The second respondent filed the counter-affidavit.

5.The learned counsel appearing for the respondents 2 and 3 submitted that only the Board of Directors appointed the petitioner and the Board has power to initiate disciplinary proceedings. As per by-law 16 (19) (a), it is clear that the Secretary and other employees are appointed only by the elected body and the said elected body is empowered with initiating disciplinary proceedings against the Secretary and other employees. The petitioner was suspended temporarily, based on the resolution of the second respondent. The charge-memo was issued to the petitioner and disciplinary proceedings will be initiated as per the rules and regulations. The second respondent has power to suspend the petitioner and the contention of the learned counsel appearing for the petitioner that the second respondent has no jurisdiction and the petitioner was suspended only when he refused to co-operate for his illegal activity, is baseless. Thus, the allegations are made only to get over the misconduct made by the petitioner and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 and perused the materials available on record.

7.From the materials available on record, it is seen that the petitioner is challenging the impugned order of suspension on the ground that the second respondent has no power to suspend the petitioner. It is the case of the petitioner that only the first respondent is the disciplinary authority and only the first respondent can initiate disciplinary proceedings and suspend the petitioner from service. The said contention are without merits. As per the by-laws only the second respondent/Board of Directors is the appointing authority of the petitioner and the second respondent can initiate disciplinary proceedings and also suspend the petitioner



from service pending disciplinary proceedings. Only when the Secretary is brought on common cadre, the Joint Registrar is the disciplinary authority. The petitioner is working in Milk Producers Co-operative Society and as per by-law 16(19)(a), the Managing Committee/Board of Directors is the appointing authority and the authority is empowered to initiate disciplinary proceeding and also has power to suspend the petitioner pending disciplinary proceedings. In the present case, the resolution has been passed by the Managing Committee/Board of Directors of the second respondent Society and based on the resolution, the petitioner was suspended pending disciplinary proceedings. Based on the resolution of the Board of Directors, the second respondent passed the impugned order and there is no reason to interfere with the order of suspension.

8. In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL)

// 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

1. The Deputy Registrar (Dairying),
Dindigul Collectorate, Dindigul, Dindigul District.

2. The President,
M.S 257 K. Dharmathupatti Mill Producers Co-op Society,
Dharmathupatti, Dindigul District.

+1 CC to M/s. T.R. SUBRAMANIAN, Advocate (SR-22239[F] dated 13/07/2021)

+1 CC to M/s. SPL GP (SR-22310[F] dated 13/07/2021)

W.P (MD) No.9524 of 2021
12.07.2021

SSS (CO)

KB (04.08.2021) 3P 5C