



WEB COPY

W.P.(MD)No.1669 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.1669 of 2019

and

W.M.P. (MD)Nos.1424 and 1425 of 2019

H.Jahubar Sathik

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Thoothukudi Region,
Thoothukudi.

2.The President,
E.E.423, Udangudi Primary Agricultural
Cooperative Credit Society Ltd.,
29-A, Sathiyamoorthy Bazar,
Udangudi,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the letter of communication issued by the 2nd respondent in his proceedings No.NIL, dated 07.12.2018 and quash the same as illegal.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates

For Respondent No.1 : Mr.C.Ramesh
Special Government Pleader

For Respondent No.2 : Mr.N.Dilipkumar
Standing Counsel

ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

The Writ Petition has been filed, seeking to quash the letter of communication issued by the 2nd respondent in his proceedings dated 07.12.2018.



2.The petitioner's case is that the resignation letter submitted by him on 01.03.2018 was not with full volition, but due to mental stress and therefore, the petitioner has withdrawn the resignation on 27.03.2018. Therefore, the decision of the society accepting the resignation dated 21.03.2018 is not tenable.

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3.The learned counsel appearing for the appellant has drawn the attention of this Court to the bye-laws of the respondent Society, in particular, by-law No.13 and submits that in case of resignation, a declaration has to be obtained from the employee, which has not been done in the petitioner's case. That apart, there is no proof to show that a representation withdrawing the resignation was received by the respondent Society as could be seen from the postal acknowledgment.

4.In our considered view, this issue cannot be adjudicated in the Writ Petition as the petitioner has an effective alternative remedy under the Tamil Nadu Cooperative Societies Act, 1983 and the Rules framed thereunder. However, considering the fact that there have been litigations and the petitioner has been out of employment since 2018, treating the case on hand as an unique one, we direct the second respondent society to place the entire papers mentioned in the resolution and all other records concerning the petitioner before the first respondent within three weeks from the date of receipt of a copy of this order and on receipt of those papers, the first respondent viz., the Joint Registrar of Cooperative Societies, Thoothukudi Region, Thoothukudi, shall issue notice to the second respondent as well as the petitioner herein and examine the facts as to whether the resignation is not voluntary; is it in accordance with the bye-laws and whether it has been withdrawn by the petitioner. After considering these aspects, a decision shall be taken by the first respondent by passing a reasoned order and communicate the decision to the petitioner within a period of three weeks from the date on which personal hearing is concluded.

5.The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



sj

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

The Joint Registrar of Cooperative Societies,
Thoothukudi Region,
Thoothukudi.

+1 CC to MR.N.DILIP KUMAR, Advocate (SR-15687[F] dated 09/04/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-15752[F] dated 09/04/2021)

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KM(27.05.2021) 3P 4C