



W.P. No.17234 of 2018 and W.M.P. No.20513 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

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THE HON'BLE MR.JUSTICE **M.S.RAMESH**

W.P. No.17234 of 2018 and W.M.P. No.20513 of 2018

P.Gunasekaran

.. Petitioner

Vs

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

2.The Deputy Registrar of Co-operative Societies,
Chidambaram Circle,
Chidambaram,
Cuddalore District.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his Proceedings Na.Ka.1372/2018/PACCS, dated 27.06.2018 and consequential order passed by the second respondent in his Proceedings Na.Ka.No.1372/2018/PACCS, dated 30.06.2018 and quash the same and consequently direct the respondents to disburse the retirement benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER



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This writ petition has been filed, challenging the impugned Proceedings Na.Ka.1372/2018/PACCS dated 27.06.2018 and 30.06.2018, issued by the second respondent.

2.The petitioner herein, while serving as a Secretary of Srimushnam Primary Agricultural Co-operative Credit Society, was placed under suspension by the Deputy Registrar of Co-operative Societies on 27.06.2018. On 30.06.2018, by an other order, the petitioner was not permitted to retire from his service. Both these orders are put under challenge in the present writ petition.

3.Learned Counsel for the petitioner placed reliance on a decision of this Court for the proposition that the Deputy Registrar of Co-operative Societies does not have the authority to suspend an employee of a Co-operative society.

4.A perusal of the order of this Court in the case of the *Management, Tindivanam Primary Co-operative Agriculture and Rural Development Bank Ltd. vs. the Joint Registrar of Co-operative Societies* passed in *W.P. No.2628 of 2015* dated 12.07.2022 shows that this Court had applied the principle of *delegatus non potest*



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delegare and held that when Section 172 of the Tamil Nadu Co-operative Societies Act empowers the Government to challenge the powers conferred under Sections 170 and 180 on any authority or officer and pursuant to such delegation, the Joint Registrar of Co-operative Societies has been delegated, further delegation to the Deputy Registrar would amount to usurping all the powers of the Joint Registrar by the Deputy Registrar and accordingly had interfered with the impugned proceedings therein.

5.The aforesaid analogy would be applicable to the present case also. As such the impugned order as well as the consequential order of not permitting the petitioner to retire from service, cannot be sustained. Accordingly, the impugned orders dated 27.06.2018 and 30.06.2018 on the file of the second respondent are quashed. However, if the Joint Registrar is of the view that the petitioner should be proceeded for any further action under the Act, liberty is hereby granted to the Joint Registrar Co-operative Societies to take appropriate action, within a period of sixty days from the date of receipt of a copy of this order. In case no action is initiated within the



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period of sixty days, the respondents shall forthwith disburse all the retirement benefits of the petitioner herein within a period of four weeks from the date of expiry of sixty days period.

08.12.2022

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To

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