



WEB COPY



W.P.No.30533 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.30533 of 2022 and
WMP.No.29963 of 2022

T.Jayakumar

... Petitioner

Vs.

The Deputy Registrar of Cooperative Societies,
Vellore Circle,
Vellore.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the order passed by the respondent in Na.Ka.2308/2022 sa.pa dated 28.10.2022 quash the same.

For Petitioner : Mr.M.S.Palaniswamy

For Respondent : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

Read this order in conjunction with order dated 16.11.2022 that reads

as follows:

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for the respondents and seeks a short date to obtain instructions and file a counter.

2. The issue that arises turns upon an interpretation of application of Section 34 of the Tamil Nadu Cooperative



Societies Act, 1983 (in short 'Act').

3. The petitioner, who is a member of the Governing Body of C.1962, CMC Employees Co-operative Thrift and Credit Society Ltd., Vellore, challenges an order dated 28.10.2022 disqualifying him from the said post.

4. Admittedly, the petitioner was in arrears of loan of Rs.8.00 lakhs borrowed by him on 01.03.2021. However, his case is that the entire amount was repaid along with applicable interest on 03.11.2021 even prior to the issuance of show cause notice, which is dated 23.06.2022.

5. Thus, according to him, the protection as set out under Section 34(1)(b)(i) of the Act would apply on all fours to his case.

6. List on 29.11.2022 at the end of admission list. Counter/written instructions by then with an advance copy served upon the petitioner.

2. A counter has been filed by the sole respondent/Deputy Registrar of Co-operative Societies, acceding to the legal position as recorded in the order above. He also reiterate at para 6 that the petitioner has repaid the loan in entirety on 03.11.2021 and has no outstanding as on date.

3. In counter reference is made to G.O.No.132, Cooperation, Food and Consumer Protection Department dated 05.09.2017 and Circular Instructions passed on the G.O. by the Registrar of Co-operative Societies in Circular No.10/175 SF (2) (RC.No.60624/2017/SF 2) dated 05.09.2017.

Para 7 of the counter reads as follows:

7. Under the circumstances stated supra, in pursuance of instructions issued in G.O.No.132, Cooperation, Food and Consumer protection Department dt 05.09.2017 and Circular instruction issued based on that Government issued by the



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Registrar of Coop. Societies, Chennai in Circular No.10/2017 SF 2 (Rc.No.60624/2017/SF 2) dt. 05.09.2017, this respondent came to the conclusion that to meet the ends of justice, it is just and necessary to recall the Proceedings in which passed orders in Rc No.2308/2022 Sa.Pa dt. 25.07.2022 removing Thiru T. Jayakumar/Petitioner herein and two other Directors from the Directorship of the Board of the Society.

4. It would have been appropriate had the officer acceded to the position that an error had been committed instead of projecting as though the withdrawal was necessary to '*meet the ends of justice*' and this construction is deprecated by this Court.

5. Recording this, the Court orders that the petitioner shall be reinstated forthwith. With this, the writ petition is closed. No costs. Connected miscellaneous petition is closed.

29.11.2022

ska

Index : Yes/No

Speaking Order

To

The Deputy Registrar of Cooperative Societies,
Vellore Circle,
Vellore.



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DR.ANITA SUMANTH,J.
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