IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.11.2022**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.**16833** of **2017**
and W.M.P.No.**18281** of **2017**

Democratic Accounts Service Association,
(Formerly Dr.Ambedkar Service Association),
Represented by its General Secretary,
Office of the Accountant General,
Accounts & Entitlements,
361, Anna Salai, Teynampet,
Chennai - 600 018. .. Petitioner

Vs.

1. The Accountant General,
   A & E, Tamil Nadu
   Office of the Accountant General,
   (Accounts and Entitlements),
   361, Anna Salai, Teynampet,
   Chennai - 600 018.

2. The Senior Accounts Officer (Admin),
   Office of the Accountant General,
   (Accounts and Entitlements),
   361, Anna Salai, Teynampet,
   Chennai - 600 018.

3. The Senior Accounts Officer (OM),
   Office of the Accountant General,
   (Accounts and Entitlements),

361, Anna Salai, Teynampet,
Chennai - 600018. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records of the proceedings bearing No.AG(A&E)/OMI/IV/2017-18/17425 dated 19.05.2017 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.T.Ravikumar

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O R D E R

This writ petition has been filed challenging the order of the 3rd respondent dated 19.05.2017, in and by which, the competent authority has withdrawn the allotment of room to the petitioner association and directed the petitioner to immediately vacate the room and hand over vacant possession on or before 01.06.2017.

2. It is the case of the petitioner that Petitioner's association was established to espouse the cause of the members of the Indian Audit and Accounts Department in the office of the Accountant General (Accounts and Entitlements) at Chennai. The association, formerly known as Dr.Ambedkar

Service Association. The respondents have recognized the petitioner association and allotted association room within the premises of the office of the Accountant General (A&E) at Teynampet, Chennai. The dues towards services charges for use of the association room within the premises is also paid by the petitioner.

3. The second respondent vide letter dated 22.04.2015, had called upon the petitioner association to effect certain minor changes to its Constitution and the same was duly complied with. However, on 11.09.2015, the 2nd respondent sent another letter stating that Comptroller and Auditor General of India had opined that the naming of an association after a national personality would be violation of the C.C.S.(RSA) Rules, 1993.

4. According to the writ petitioner, under Rule 5(d)(i) of the C.C.S.(RSA) Rules, 1993 an association representing 35% of the total members of a category of employees may be recognized under the Rules. A second association, under the same category, may be considered if it commands at least 15 % membership from and out of the total number of employees in a category.

5. The respondents vide their letters dated 29.07.2016 and 17.08.2016, called upon the petitioner association to submit the consent letters of the concerned employees who had consented to be members of their association. On 31.08.2016, the association forwarded a list of 282 members who had consented to join the DASA CAT III. However, on 16.01.2017, the association was surprised to receive a letter from the 1st respondent stating that 188 consent letters out of a total of 282 letters were treated as invalid. The letter does not give any reason as to why those letters were rejected. Thereafter, the 3rd respondent vide impugned letter dated 19.05.2017, stated that the competent authority has withdrawn the allotment of room to the petitioner association and directed the petitioner to immediately vacate the room. Hence, challenging the same the present writ petition has been filed.

6. Counter affidavit has been filed by the respondents. It is contended by the respondents that as the petitioner association did not have the required strength of membership to get recognised under the CCS (RSA) Rules and the same was informed by the letter dated 16.01.2017, that recognition to the petitioner could not be accorded.

7. Consequently, on 02.05.2017, the 3rd respondent issued a show cause notice requesting to explain within 7 days why the allotment of room to the petitioner association should not be withdrawn. Since no reply was received, by impugned notice dated 19.05.2017, the third respondent informed that the competent authority has withdrawn the room facility and that the same shall be immediately vacated and vacant possession handed over on or before 01.06.2017. Since the petitioner has not handed over the possession by 01.06.2017, a Committee of Officials nominated by the Accountant General put a lock on the already locked premises and pasted a notice on the door to the effect of taking over the possession. Hence, it is contended that as possession has already been taken, the writ petition has become infructuous.

8. The learned counsel appearing for the petitioner would submit that the impugned order is contrary to the Rules.

9. Whereas, the learned counsel appearing for the respondents would submit that possession has already been taken pursuant to the orders dated 02.05.2017 and 19.05.2017. It is his contention that the petitioner's association is not having the requisite members for recognition as per the

Central Civil Services (Recognition of Service Associations) Rules.

10. The learned counsel appearing for the petitioner would submit that there are requisite number of members in their association and therefore the same may be considered for recognition. According to the learned counsel appearing for the petitioner, possession has been taken despite 288 members supporting the petitioner association.

11. It is not disputed that the order dated 19.05.2017, shows that no reply has been received from the petitioner and therefore the petitioner was directed to vacate and hand over possession on or before 01.06.2017. Thereafter, it appears that possession has been taken on 01.06.2017. The main issue pertains to the recognitions. It is contended by the learned counsel appearing for the petitioner that the petitioner association is having the requisite members, whereas, the learned counsel appearing for the respondents disputes it.

12. Such view of the matter, this Court is of the view that as possession has already been taken up by the respondents, it is for the petitioner association to give fresh application to the competent authority

with requisite members for recognition. On such application being filed by the petitioner association, the respondents shall consider the same as per the Central Civil Services (Recognition of Service Associations) Rules, provided the petitioner association satisfy majority. If the petitioner establishes majority, then recognition may be granted by the respondents. It is also stated by the learned counsel appearing for the respondent that till today the petitioner association has not made any such application and only in the event of such application is being made to the competent authority, the same may be considered by the respondents. The learned counsel appearing for the petitioner association submitted that petitioner association will soon submit such application for recognition to the competent authority. With the above observations, this writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

09.11.2022

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To

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N.SATHISH KUMAR, J.

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