



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5839 of 2021

and

W.M.P. (MD) Nos.4586 & 4587 of 2021

WEB COPY

K.Pandi

... Petitioner

-vs-

1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
Secretariat, Fort St. George, Chennai.

2.The Commissioner For Milk Production
and Dairy Development,
Madhavaram Milk Colony,
Chennai - 600 051.

3.The General Manager,
Madurai District Co-operative
Milk Producers Union Limited,
Sathamangalam, Madurai - 625 020.

4.The Deputy Registrar of Cooperative Societies,
Madurai Range, Madurai.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned charge memorandum vide Ref.No.2062/1R/2020 dated 21.05.2020 and the consequential order of suspension vide Ref.No.2062/1R/2020 dated 18.12.2020 passed by the 3rd Respondent and quash the same and further direct the respondents to reinstate the petitioner in service and confer all the backwages and monetary benefits within a stipulated time.

For Petitioner : Mr.N.Karthik Kanna

For Respondents : Mr.M.Ramesh,
Government Advocate

O R D E R

The impugned charge memorandum and the consequential suspension order passed by the 3rd respondent - Cooperative Milk Producers Union Ltd., are under challenge in the present writ petition.



2.The Milk Producers Union Limited is a Cooperative Society registered under the provisions of the Tamil Nadu Cooperative Societies Act and not funded by the Government. Thus, the Cooperative Society is not a State within the meaning of Article 12 of the Constitution of India. Thus, the writ petition is not maintainable. However, the petitioner has to exhaust the statutory remedy contemplated under the provisions of the Tamil Nadu Cooperative Societies Act before the competent authority, who is the State. The principles in this regard are settled by the Larger Bench of this Court in the case of **K.Marappan vs. Deputy Registrar of Co-operative Societies** reported in **2006 (4) CTC 689**. The said proposition was upheld by the Hon'ble Apex Court of India also.

3.What is required in such cases where the establishment is not a State, the petitioner is bound to exhaust the statutory remedies. Even in other cases where orders are passed by the State Authorities, if appellate remedy is contemplated, the said remedy is to be exhausted before approaching the Court of law. The importance of exhausting the appellate remedy, at no circumstances, be undermined. The rule is to exhaust the appellate remedy and entertaining a writ petition is an exception.

4.These being the principles, this Court is of the opinion that in normal circumstances, the aggrieved person has to exhaust the statutory remedy. Only in the event of any gross injustice or the damage caused cannot be restored, then alone the Writ Petition is to be entertained by dispensing with the appellate remedy, but not otherwise. Therefore, in the present case, the petitioner has to exhaust the remedy contemplated more specifically under Section 153 of the Tamil Nadu Cooperative Societies Act. In the event of filing any such revision, the authority competent has to decide the matter on merits and in accordance with law as expeditiously as possible.

5.With the above liberty, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl side)

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Sub Assistant Registrar(CS)

abr



To

1.The Secretary to Government,
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and Dairy Development,
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Chennai - 600 051.

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4.The Deputy Registrar of Cooperative Societies,
Madurai Range, Madurai.

+1 CC to M/s.SPL.GP (SR-10988[F] dated 09/03/2022)

+1 CC to M/s.N.KARTHIK KANNA, Advocate (SR-11234[F] dated
10/03/2022)

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