



CRP(MD)No.1027 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.1027 of 2022
and
CMP(MD)Nos.4093, 5544 of 2022

The Management,
MD (Spl) Melathirumanickam Primary
Agricultural Co-operative Credit Society Ltd.,
Melathirumanickam,
Peraiyur Taluk,
Madurai District.

: Petitioner

Vs.

T.K.Ramar

: Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records pertaining to the order dated 24.03.2022 passed by the Joint Commissioner of Labour, Madurai / Appellate Authority, in TNSE IA 12/2021 in 02/2021 and set aside the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondent : Mr.T.Ravichandran



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ORDER

The petitioner is the President of a primary agricultural co-operative credit society and he filed this revision petition as against the order passed by the Joint Commissioner of Labour, Madurai, in TNSE IA 12/2021 in 02/2021, dated 24.03.2022.

2.The respondent is working as an Attender and he was also given additional charge of Secretary of the Society. On certain allegations that he has committed misappropriation, a domestic enquiry was conducted and the respondent was terminated from service. Challenging the same, the respondent filed TNSE 02/2021, under Section 41 of the Tamil Nadu Shops and Establishments Act (hereinafter referred to as 'the Act') before the Joint Commissioner of Labour, Madurai. In that application, the petitioner has filed IA 12/2021 stating that as per Section 1(3)(iii)(b) of the Act and as per the notification issued by the Government, the Joint Commissioner is not having any authority to deal with the application filed by the respondent under Section 41 of the Act, since the Society is situated in a village panchayat. However, the said application was rejected by the Joint Commissioner by order dated 24.03.2022 and aggrieved over the same, the petitioner has moved the instant revision.



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3.Learned Counsel for the petitioner submitted that the Society is situated at second grade village panchayat with a population of 600 families. The Tamil Nadu Shops and Establishments Act is not applicable to the village panchayat insofar as Section 41 of the Act is concerned. He further submitted that the Joint Commissioner rejected the application by referring the decision of this Court reported in *CDJ 2014 MHC 6144*. The said reported decision is the order passed by this Court in WP(MD)No.3630 of 2006, dated 03.08.2011. It was set aside by a Division Bench of this Court in WA(MD)No.1632 of 2011, dated 01.08.2017. Further the notification issued by the Government of Tamil Nadu in No.381, dated 14.11.2018 is only in respect of Sub-Section 1 of Section 25 of the Act and not under Section 41 of the Act. He has also relied upon yet another decision of a Division Bench of this Court reported in *(2007) 2 MLJ 461*.

4.Learned Counsel for the respondent submitted that as per Notification No. 381, dated 14.11.2018, issued by the Government of Tamil Nadu, the Joint Commissioner of Labour is entitled to hear the matter and there is no reason to interfere with the order impugned.



5.This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

6.The Government of Tamil Nadu issued a notification in No.381, dated 14.11.2018, under the Tamil Nadu Shops and Establishment Act, 1947, that the Act shall come into force on 14.11.2018 in all the area in the State of Tamil Nadu, where the provisions of the Act have not been put into force so far. The relevant portion of the said notification is extracted as under:-

“In exercise of the powers conferred by clause (b) of sub-section (3) of Section 1 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947), the Governor of Tamil Nadu hereby directs that the said Act shall come into force on 14th November 2018 in all the areas in the State of Tamil Nadu, where the provisions of the said Act have not been brought into force so far by invoking clauses (a) and (b) of sub-section (3) of Section 1 of the said Act.”

7.In the decision reported in (2007) 2 MLJ 461, relied upon by the petitioner, the Division Bench of this Court has held that the provisions of Tamil Nadu Shops and Establishments Act is not applicable to the village panchayat. But, that judgment was passed when there was no notification specifically



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notifying that the Act would be applicable to the village panchayats. But now, the Government has issued Notification No.381, dated 14.11.2018, clarifying that the Tamil Nadu Shops and Establishments Act shall come into force in all the areas in the State of Tamil Nadu, where the provisions of the said Act have not been brought into force so far, with effect from 14.11.2018.

8.In view of the above position, this Court is not inclined to interfere with the order passed by the Joint Commissioner of Labour, Madurai. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.

Index : Yes / No
Internet : Yes
gk

02.12.2022

To

The Joint Commissioner of Labour,
Madurai.



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B.PUGALENDHI, J.

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