



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.9855 of 2022

and

W.M.P (MD) Nos.7077 & 7078 of 2022

WEB COPY

P.Sivasubramanian

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
O/o.The Joint Registrar of Cooperative Societies,
Thoothukudi Region, Thoothukudi.

2.The Deputy Registrar of Cooperative Societies,
O/o.The Deputy Registrar of Cooperative Societies,
Thoothukudi Circle, Thoothukudi.

3.The Managing Director,
O.961, Thoothukudi District Consumer-
Cooperative Wholesale Store Limited,
134, Great Cotton Road,
Thoothukudi - 628001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, call for the records relating to the impugned order passed by the first respondent vide Na.Ka.771/2022 **மொஷித் 3 நூள்** 20.04.2022 and the consequential suspension order passed by the third respondent vide Na.Ka.108/2022 **G நூள்** 28.04.2022 and quash the same and consequently directing the respondents to reinstate the petitioner in service on the basis of his representation dated 11.05.2022.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

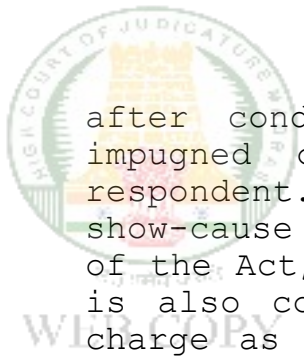
For Respondents : Mr.A.Kannan,

Addl. Government Pleader

O R D E R

This petition has been filed challenging the order dated 20.04.2022 passed by the first respondent calling upon the petitioner to pay a sum of Rs.1,51,250/- and the consequential order of suspension passed on 28.04.2022 by the third respondent.

2. The petitioner has challenged the impugned orders primarily on the ground that the procedure contemplated under Sections 81 and 87 of the Tamil Nadu Cooperative Societies Act, 1983 has not been duly followed by the respondents. According to the petitioner, only



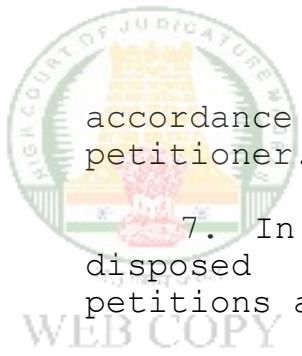
after conducting an inquiry under Section 81 of the Act, the impugned order dated 20.04.2022 can be passed by the first respondent. It is the contention of the petitioner that without any show-cause notice and without holding any inquiry under Section 81 of the Act, the impugned order dated 20.04.2022 has been passed. It is also contended by the petitioner that he had handed over the charge as well as the stock and goods without any discrepancy on 01.03.2022 itself. According to the petitioner, the rice bags were found by the Deputy Registrar of the Cooperative Societies only on 31.03.2022 after a lapse of one month from the date when the petitioner was relieved. According to the petitioner, he is in no way connected with the alleged rice bags found in the building maintained by the local authority.

3. According to the learned Additional Government Pleader appearing for the respondents, Sections 81 and 87 of the Tamil Nadu Cooperative Societies Act, 1983 will not apply to the facts of this case.

4. As seen from the impugned order, the contentions raised by the petitioner in this writ petition have not been considered. No opportunity of hearing has also been given to the petitioner to enable him to submit his explanation with regard to the allegations levelled against him by the respondents.

5. The grievance of the petitioner is that the procedure contemplated under the Tamil Nadu Cooperative Societies Act, 1983 (Surcharge proceedings and also to Section 81 of the Tamil Nadu Cooperative Societies Act, 1983) relating to inquiry proceedings has not been followed by the first respondent before passing the impugned order dated 20.04.2022. Since no opportunity of hearing has been granted to the petitioner by the first respondent before passing the impugned order dated 20.04.2022 and the contentions of the petitioner as raised in this writ petition have not been considered, this Court is of the considered view that principles of natural justice has been violated by the first respondent before passing of the impugned order dated 20.04.2022. Therefore the impugned order dated 20.04.2022 passed by the first respondent is liable to be quashed. The first respondent will have to initiate fresh proceedings for recovery of the alleged amount from the petitioner by following the procedure contemplated under the Tamil Nadu Cooperative Societies Act, 1983 and only thereafter final orders can be passed for recovery of the amount from the petitioner. Accordingly, the impugned order dated 20.04.2022 passed by the first respondent is quashed.

6. Insofar as the suspension order dated 28.04.2022 passed by the third respondent which is also challenged in this writ petition is concerned, it is for the petitioner to submit a representation to the third respondent requesting for removal of his suspension and it is for the first respondent to consider the same on merits and in



accordance with law after affording a fair hearing to the petitioner.

7. In terms of the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar
(Vacation Officer)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

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To

- 1.The Joint Registrar of Cooperative Societies,
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O/o.The Deputy Registrar of Cooperative Societies,
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- 3.The Managing Director,
O.961, Thoothukudi District Consumer-
Cooperative Wholesale Store Limited,
134, Great Cotton Road,
Thoothukudi - 628001.

+1 CC to M/s.D. SHANMUGARAJA SETHUPATHI, Advocate (SR-23906[F]
dated 20/05/2022)

+1 CC to M/s.SPL.GP (SR-24023[F] dated 23/05/2022)

W.P. [MD]No.9855 of 2022
20.05.2022

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