



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.01.2022

CORAM:

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

W.P(MD)No.11388 of 2021

and

W.M.P(MD)Nos.8907 and 8908 of 2021

M.Panaiyadian

... Petitioner

Vs

1.The Registrar of Co-Operative Societies,
N.V.M.Maalgai,
No.170, EVR High Road,
Kilpauk, Chennai -600 010.

2.The Joint Registrar of
Co-operative Societies,
Tiruchirappalli Region,
Tiruchirappalli.

3.The Deputy Registrar of
Co-Operative Societies,
Office of the Deputy Registrar of
Co-Operative Societies,
Lakkudi, Tiruchirappalli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, to call for the records relating to the impugned proceedings of the third respondent vide Na.Ka.1481/2020/Pa.Tho, dated 18.06.2021 and quash the same and consequently direct the respondents to include the petitioner's name in the promotional panel of Co-Operative Sub-Registrar fit to be promoted as Deputy Registrar of Co-Operative Societies as on the crucial date of 01.05.2021.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition has been filed challenging the charge memo dated 18.06.2021 issued by the third respondent on the petitioner.

2.The learned Counsel for the petitioner submits that the petitioner is presently working as a Co-Operative Sub Registrar



under the third respondent and he has been the Field Officer of Lalgudi Taluk, which comprises 18 Co-Operative Societies. The petitioner has inspected R.939 - Thachankurichi Primary Agricultural Co-Operative Credit Society and found financial irregularities committed by the Secretary and other staff to the tune of several lakh. Therefore, he submitted detailed special reports dated 27.12.2019 and 28.12.2019 to the third respondent with regard to the irregularities and illegalities found in the said Society. Based on his report, the third respondent, Deputy Registrar of Co-Operative Societies, Lalgudi ordered for an enquiry under Section 81 of the Tamil Nadu Co-Operative Societies Act and enquiry officer was also appointed. While being so, the petitioner has been issued with a charge memo under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules alleging that he has failed to inspect the society and to find out the irregularities took place in the Society. Therefore challenging the same, the petitioner is before this Court.

3.The learned Counsel further submits that the petitioner is not the supervising authority. Moreover, he only found the irregularities and illegalities in the society during his inspection and brought the same to the notice of the third respondent vide his special reports. Unfortunately, the petitioner has been issued with a charge memo that he failed to inspect and find out the illegalities and even, for the said allegations, departmental proceedings can be initiated only under Rule 17(a) and not under 17 (b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The petitioner has been issued with the charge memo, only in order to prevent him from being promoted. Therefore, the petitioner prays that his name may be included in the panel to be prepared by the respondents, for promotion to the post of Deputy Registrar of Co-Operative Societies by altering the charge under 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules.

4.The learned Additional Government Pleader appearing for the respondents submits that the petitioner being the Co-Operative Sub Registrar, is the jurisdictional Field Officer for Lalgudi Taluk. But he has failed to properly examine the activities of the employees of the Society and also failed to verify the records to be maintained in the Society. Further the enquiry officer held that the petitioner is guilty of not properly supervising the activities of the employees of the society and thereby he has miserably failed in discharging his duties and responsibilities. Due to the same, there was large scale irregularities and misappropriation to the tune of Rs.1,54,83,281/-. Therefore, based on the recommendation of the enquiry officer, disciplinary proceedings were initiated against the petitioner.

5.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.



6.The petitioner has been issued with a charge memo on the ground that he has failed to properly supervise and inspect the Co-Operative Societies under his jurisdiction. Due to the same, in a Co-Operative Society several illegalities and misappropriation have taken place to the tune of several lakh. The grievance of the petitioner is that he is not at all the supervising authority of the Co-Operative Society, as claimed by the respondents and therefore, he cannot be charged under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. However, charge memo has been issued based on the enquiry conducted under Section 81 of the Tamil Nadu Co-Operative Societies Act. Though the petitioner claims that he is not the supervising authority, there is no material placed on record about the duties and responsibilities of the petitioner, to ascertain the same.

7.In the light of the above, this writ petition is disposed on the following terms:

(ii) The third respondent shall direct the Enquiry Officer to conclude the enquiry and to file a report within a period of twelve weeks from the date of receipt of a copy of this order;

(ii) Upon receipt of such a report from the Enquiry Officer, the third respondent shall take a decision within a period of four weeks therefrom. While doing so, the third respondent shall also consider as to whether the petitioner shall be charged under Rule 17 (b) or 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, depending upon the duties and responsibilities of the petitioner and the nature of allegations made against him and proceed further in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Registrar of Co-Operative Societies,
N.V.M.Maalgai,
No.170, EVR High Road,

<https://hcservices.tn.gov.in/hcservices/>
Kilpauk, Chennai -600 010.



2.The Joint Registrar of
Co-operative Societies,
Tiruchirappalli Region,
Tiruchirappalli.

3.The Deputy Registrar of
Co-Operative Societies,
Office of the Deputy Registrar of
Co-Operative Societies,
Lakkudi, Tiruchirappalli District

+1 CC to M/s.SPL GP (SR-1315[F] dated 11/01/2022)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-1362[F] dated
12/01/2022)

W.P(MD)No.11388 of 2021
10.01.2022

SJ(CO)
KB(21.03.2022) 4P 6C