



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.9252 of 2019

and

W.M.P(MD) Nos.12716 & 7272 of 2019

and

W.P(MD) No.8722 of 2019

and

W.M.P(MD) Nos.6787, 18054 & 12714 of 2019

Deivendran

... Petitioner
in both writ petitions

-vs-

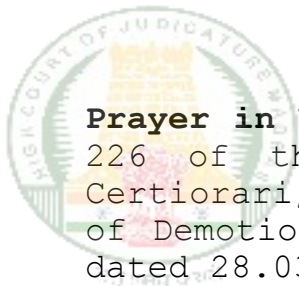
1.The Joint Registrar of Co-operative Society,
Madurai Region,
Madurai-625 002.

2.The Deputy Registrar/Administratory,
Usilampatti Range at Thirumangalam,
Madurai.
A2373, A-Pudhupatti Primary Agricultural
Co-operative Credit Society,
C.Naduvapatti, Boothipuram Post,
Usilampatti Taluk,
Madurai District.

3.The Administrator,
A2373, A-Pudhupatti Primacy Agricultural
Co-operative Credit Society,
C.Naduvapatti, Boothipuram Post,
Usilampatti Taluk,
Madurai District.

... Respondents
in both writ petitions

Prayer in W.P(MD)No.9252 of 20219: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the Impugned Order of suspension passed by the second respondent in his proceedings Nil, dated 11.04.2019 and quash the same as illegal.



Prayer in W.P(MD)No.8722 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the Impugned Order of Demotion passed by the third respondent in his proceedings Nil, dated 28.03.2019 and quash the same as illegal.

WEB COPY

For Petitioner : Mr.C.Mayil Vahana Rajendran

For R1 & R2 : Mr.P.Thilak Kumar
Government Pleader
Assisted by Mr.M.Ramesh,
Government Advocate

For R3 : Mr.S.Kumar

COMMON O R D E R

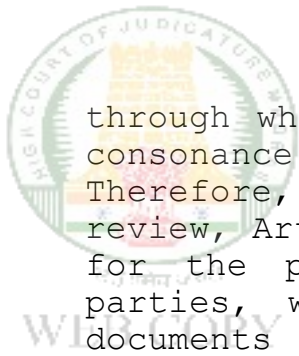
The order of suspension, dated 11.04.2019 placing the writ petitioner under suspension on the ground that a criminal case is pending against him regarding irregularities and illegalities committed in the Fair Price Shops is under challenge in the writ petition in W.P.(MD)No.9252 of 2019.

2. The order of suspension is challenged mainly on the ground that earlier, the petitioner was promoted from the post of Salesman to Clerk and his promotion order was cancelled and the writ petitioner filed an another writ petition in W.P(MD)No.8722 of 2019 challenging the cancellation of promotion and this Court, by order, dated 11.04.2019 granted an interim stay. In view of the interim stay granted by this Court, the authorities have placed the writ petitioner under suspension.

3. The learned counsel appearing for the petitioner made a submission that this Court ordered for the personal hearing of the authorities, that prompted the authorities to place the writ petitioner under suspension. However, such allegations cannot be adjudicated elaborately in a writ proceedings. The petitioner, admittedly, is an employee of Co-operative society registered under the provisions of the Tamil Nadu Co-operative Societies Act, which is not a 'State' within the meaning of Article 12 of the Constitution of India. Therefore, the writ petition is not maintainable. Further more, the allegations, counter allegations in such matters, required an adjudication with reference to the documents and evidences. The High Court in a writ proceedings cannot undertake such adjudications and therefore, the writ petitioner has to exhaust the statutory remedy contemplated under the Act.

4. The power of judicial review of the High Court under Article 226 of the Constitution of India is to enforce the processes,

<https://hcservices.ecourts.gov.in/hcservices/>



through which, a decision is taken by the competent authorities in consonance with the statutes or rules, but not the decision itself. Therefore, on exceptional circumstances, the power of judicial review, Article 226 of the Constitution of India cannot be exercised for the purpose of adjudication of disputed facts between the parties, which is to be undertaken only with reference to the documents in original and evidences. Thus, the importance of exhausting the alternative remedy is continuously insisted by the Constitutional Courts across the country. In the event of clear fact finding by the original authority and the appellate authority, the same would be of greater assistance to the High Court for the purpose of exercise of power of judicial review in an effective manner. Contrarily, in the absence of adjudication on merits, there is a possibility of error or omission and which may lead to miscarriage of justice. Therefore, in all circumstances, an aggrieved person is expected to exhaust the statutory remedies, which is legislatively intended for the specific purpose to adjudicate the issues on merits and to redress the grievances. Such legislative intension and the purpose and object of the statutes can never be compromised or dispensed with in a casual or routine manner.

5. Thus, this Court is of the considered opinion that the petitioner is at liberty to adjudicate all such facts before the competent revisional authority under the provisions of the Tamil Nadu Co-operative Societies Act in the manner prescribed. The Larger Bench Bench of this Court has settled the legal principles in this regard in the case of Marappan v. The Deputy Registrar of Co-operative Societies, Namakkal reported in 2006(4) CTC 689.

6. With this liberty, these writ petitions are dismissed. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

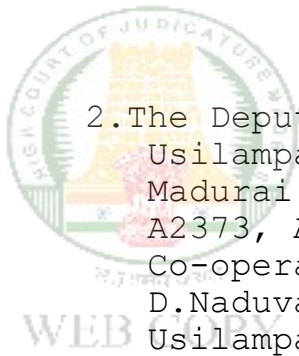
/ /2022

Sub Assistant Registrar(CS)

am

To

1.The Joint Registrar of Co-operative Society,
Madurai Region,
Madurai-625 002.



2.The Deputy Registrar/Administratory,
Usilampatti Range at Thirumangalam,
Madurai.
A2373, A-Pudhupatti Primary Agricultural
Co-operative Credit Society,
D.Naduvapatti, Boothipuram Post,
Usilampatti Taluk,
Madurai District.

+2 CC to M/s.C.MAYILVAHANA RAJENDRAN, Advocate (SR-6298,6297[F]
dated 15/02/2022)

+1 CC to M/s.SPL GP (SR-6518[F] dated 16/02/2022)

W.P.(MD) Nos.9252 & 8722 of 2019
15.02.2022

RK(24/02/2022) 4P 6C