



W.P(MD)No.14133 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.14133 to 14135 of 2021 & 12059 of 2022

and

W.M.P(MD)Nos.11093, 11094, 11095 of 2021,
347, 345, 563 & 15614 of 2022

W.P(MD)No.14133 of 2021:

V.Murugeswari

... Petitioner

Vs

- 1.The Registrar of Co-operative Societies,
NVN Natarajan Maligai,
170, EVR High Road,
Kilpauk,
Chennai – 10.
- 2.The Joint Registrar of Co-operative Societies / Chairman
District Recruitment Bureau,
Office of the Joint Registrar of Co-operative Societies,
Sivagangai.
- 3.The Deputy Registrar / Managing Director,
R27, Ilaiyankudi Co-operative Urban Bank,
Ilaiyangudi,
Sivagangai District.



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4. The President,
R27, Ilaiyangudi Co-operative Urban Bank,
Ilaiyangudi,
Sivagangai District.

5. A. Riyas
6. J. Sahul Hameed
7. N. Sajjath Ahamed
8. M. Sheik Sahul Hameed
9. T. S. Mohamed Kalith
10. M. S. Ameer Ali Ravvthar
11. S. M. A. Maideen Pitchai

***(R.5 to R.11 are impleaded vide order of this Court,
dated 19.10.2022 in W.M.P(MD)No.1895 of 2022
in W.P(MD)No.14133 of 2021)***

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the impugned order dated 12.05.2021 on the file of the third respondent and quash the same as illegal and further directing the respondents 3 and 4 to issue posting order to the petitioner forthwith.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.R.Ragavendran
Government Advocate for R.1 & R.2

Mr.A.K.Manikkam
Special Government Pleader for R.3

Mr.V.O.S.Kalai Selvam for R.4

Mr.D.Senthil for R.5 to R.11



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W.P(MD)No.14134 of 2021:

WEB COPY

K.Rajiv Kumar

... Petitioner

Vs

- 1.The Registrar of Co-operative Societies,
NVN Natarajan Maligai,
170, EVR High Road,
Kilpauk,
Chennai – 10.
 - 2.The Joint Registrar of Co-operative Societies / Chairman
District Recruitment Bureau,
Office of the Joint Registrar of Co-operative Societies,
Sivagangai.
 - 3.The Deputy Registrar / Managing Director,
R27, Ilaiyankudi Co-operative Urban Bank,
Ilaiyangudi,
Sivagangai District.
 - 4.The President,
R27, Ilaiyangudi Co-operative Urban Bank,
Ilaiuyangudi,
Sivagangai District.
 - 5.A.Riyas
 - 6.J.Sahul Hameed
 - 7.N.Sajjath Ahamed
 - 8.M.Sheik Sahul Hameed
 - 9.T.S.Mohamed Kalith
 - 10.M.S.Ameer Ali Ravvthar
 - 11.S.M.A.Maideen Pitchai
- (R.5 to R.11 are impleaded vide order of this Court,
dated 19.10.2022 in W.M.P(MD)No.1898 of 2022
in W.P(MD)No.14134 of 2021)***

... Respondents



W.P(MD)No.14133 of 2021

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the impugned order dated 12.05.2021 on the file of the third respondent and quash the same as illegal and further directing the respondents 3 and 4 to issue posting order to the petitioner forthwith.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.R.Ragavendran
Government Advocate for R.1 & R.2

Mr.A.K.Manikkam
Special Government Pleader for R.3

Mr.V.O.S.Kalai Selvam for R.4

Mr.D.Senthil for R.5 to R.11

W.P(MD)No.14135 of 2021:

K.Vijaya Kumar

... Petitioner

Vs

1.The Registrar of Co-operative Societies,
NVN Natarajan Maligai,
170, EVR High Road,
Kilpauk,
Chennai – 10.

2.The Joint Registrar of Co-operative Societies / Chairman
District Recruitment Bureau,
Office of the Joint Registrar of Co-operative Societies,
Sivagangai.



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3.The Deputy Registrar / Managing Director,
R27, Ilaiyangudi Co-operative Urban Bank,
Ilaiyangudi,
Sivagangai District.

4.The President,
R27, Ilaiyangudi Co-operative Urban Bank,
Ilaiyangudi,
Sivagangai District.

5.A.Riyas

6.J.Sahul Hameed

7.N.Sajjath Ahamed

8.M.Sheik Sahul Hameed

9.T.S.Mohamed Kalith

10.M.S.Ameer Ali Ravvthar

11.S.M.A.Maideen Pitchai

***(R.5 to R.11 are impleaded vide order of this Court,
dated 19.10.2022 in W.M.P(MD)No.1894 of 2022
in W.P(MD)No.14135 of 2021)***

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the impugned order dated 12.05.2021 on the file of the third respondent and quash the same as illegal and further directing the respondents 3 and 4 to issue posting order to the petitioner forthwith.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.R.Ragavendran
Government Advocate for R.1 & R.2

Mr.A.K.Manikkam
Special Government Pleader for R.3

Mr.V.O.S.Kalai Selvam for R.4

Mr.D.Senthil for R.5 to R.11



W.P(MD)No.14133 of 2021

W.P(MD)No.12059 of 2022:

WEB COPY

R 27 Ilaiyankudi Co-operative
Urban Bank,
Represented by
The President,
Ilaiyankudi,
Sivagangai District.

... Petitioner

Vs

1.The Joint Registrar of Co-operative
Societies / Chairman,
District Recruitment Bureau,
Office of the Joint Registrar of
Co-operative Societies,
Sivagangai District.

2.The Managing Director / Deputy Registrar,
R27, Ilaiyankudi Co-operative Urban Bank,
Ilaiyangudi,
Sivagangai District.

3.V.Murugeswari

4.K. Vijayakumar

5.K.Rajivkumar

***(R.3 to R.5 are impleaded vide order of this Court,
dated 08.09.2022 in W.M.P(MD)No.9437 of 2022
in W.P(MD)No.12059 of 2022)***

6.M.S.Ameer Ali Ravuthar

7.T.S.Mohamed Kalith

8.N.Sajjath Ahamed

9.J.Sahul Hameed

10.A.Riyas

11.M.Sheik Sahul Hameed



W.P(MD)No.14133 of 2021

12.S.M.A.Maideen Pitchai

***(R.6 to R.12 are impleaded vide order of this Court,
dated 20.09.2022 in W.M.P(MD)No.15933 of 2022
in W.P(MD)No.12059 of 2022)***

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records passed by the first respondent in Na.Ka.3736/2018/pa.va dated 30.05.2022, quash the same.

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

For Respondents : Mr.R.Ragavendran
Government Advocate for R.1

Mr.A.K.Manikkam
Special Government Pleader for R.2

Mr.S.Kumar for R.3 to R.5

Mr.L.Vijay Boominathan for R.6 to R.12

COMMON ORDER

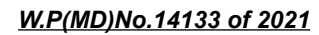
Heard the learned counsel on either side.

2. The cases on hand pertain to filling up of vacancies in the post of Assistant in R7 Ilaiyankudi Co-operative Urban Bank, Ilaiyankudi, Sivagangai District (hereinafter referred to as 'the Bank'). The said Society was formed way back in the year 1942. It is a profit-making Society and its annual turn



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over is around Rs.80 Crores. While so, a resolution was passed by the Board of the said Society on 28.09.2017, calling upon the District Recruitment Bureau, Sivagangai for filling up five vacancies in the post of Assistant and two vacancies in the post of Jewel Appraiser. Similar resolutions appear to have been passed in 2019 and 2020. Thereupon, the District Recruitment Bureau, Sivagangai Region issued notification dated 11.03.2020 calling for applications from eligible candidates for the post of Assistant in Co-operative Society other than the District Central Co-operative Bank. The petitioners in W.P(MD)Nos. 14133 to 14135 applied in response thereto and were also eventually selected. They were also issued with appointment orders by the Managing Director of the Bank on 25.02.2021. However, the appointments were put on hold by citing the impending elections to the State Assembly. The appointees were under the impression that after the election was over, they will be allowed to report for duty. Instead, they were served with impugned orders dated 12.05.2021 informing that the Bank had passed resolution rejecting the posting of the appointees by the District Recruitment Board in the Bank in question. Challenging the same, the aforesaid three writ petitions came to be filed. A learned Judge of this Court vide order dated 16.12.2021 granted an order of interim stay. It was subsequently extended vide order dated 19.01.2022.



Vide order dated 05.04.2022, the following direction was issued:

6. Therefore, this Court is inclined to close all these contempt petitions with a direction to the Joint Director of Co-



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operative Societies to take necessary action as against the President, for not obeying the direction of the Deputy Registrar of Ilaiyankudi Co-Operative Urban Bank.”

The contempt petitions were also closed. Thereafter, the Joint Registrar of Co-operative Societies, Sivagangai / the Chairman of the District Recruitment Bureau issued direction vide proceedings bearing Na.Ka.No.3736/2018/புன dated 30.05.2022 directing the Bank to permit the appointees to report for duty. In the said proceedings, the Bank was also directed to dispense with the services of eight persons who are already working as temporary employees. Challenging the same, the Bank represented by its President filed W.P(MD)No. 12059 of 2022. A learned Judge of this Court vide order dated 16.06.2022 granted an order of interim stay.

4. The temporary employees who have been directed to be ousted by the order of the Joint Registrar have filed petitions to implead themselves in the writ petitions filed by the appointees.

5. Heard the learned counsel appearing for Bank, the learned counsel appearing for the appointees, the learned counsel appearing for the Temporary employees, the learned Government Advocate appearing for the Joint Registrar



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and the learned Special Government Pleader appearing for the Managing Director of the Bank.

6. The learned counsel reiterated the stand projected in the respective pleadings.

7. I carefully considered the rival contentions and went through the materials on record. I am more than satisfied that the Bank had passed resolutions on more than one occasion calling upon the District Recruitment Bureau, Sivagangai to select candidates for filling up the vacancies in the posts of Assistant and Jewel Appraiser. In fact, the Bank wanted as many as eight candidates (Six Assistants and Two Jewel Appraisers). Of course, the Bank must have been under the impression that the eight temporary employees who are already working, would be appointed. Unfortunately, when District Recruitment Bureau issued notification, the aforesaid eight temporary employees did not respond. Instead, they filed petitions subsequently seeking conferment of permanent status.

8. Rule 150 of the Tamil Nadu Co-operative Societies Rules, 1988 provides for constitution of Recruitment Bureau. Rule 151 sets out the procedure to be followed by the Recruitment Bureau. The said recruitment Bureau will have to necessarily go by the norms set out in the said Rule and it



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may not be open to it to pass order regularizing the services of the temporary employees. In this case, I find that the District Recruitment Board had adhered to the statutory procedure and appointed the petitioners in W.P(MD)No.14133 to 14135 of 2021. Rule 151(7) categorically mandates that the Society concerned shall issue the order of appointment to the selected candidates in the order of the rank assigned to them and that the copy of the appointment shall be communicated to the Recruitment Bureau concerned. In this case, the Managing Director of the Bank had issued such orders of appointment to the aforesaid writ petitioners on 25.02.2021. Therefore, it was patently illegal on the part of the Bank in passing a resolution that they will not permit the appointees to report on duty. The orders dated 12.05.2021 issued by the Managing Director of the Bank based on the resolution passed by the Board runs contrary to Rule 151. Here is a case, where the Bank concerned called upon the District Recruitment Bureau, Sivagangai to conduct the recruitment process and choose the candidates. The Recruitment Board complied with the Society's requisition and selected the candidates. The Bank had also issued orders of appointment. Thereafter, it is not open to the Bank to do an about-turn. Therefore, the order dated 12.05.2021 is quashed. W.P(MD)Nos.14133 to 14135 of 2021 are allowed.



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9. The appointees shall be permitted to report for duty and no obstruction shall be placed in the discharge of their duties.

10. Next comes the question as to whether the Joint Registrar could have issued the impugned order dated 30.05.2022. The order reads that it has been issued under Section 181 of the Tamil Nadu Co-operative Societies Act. There is considerable merit in the contention of the learned counsel appearing for the Bank that Joint Registrar could not have invoked Section 181 of the Act. The said provision authorises only the Registrar of Co-operative Societies to issue direction to address all societies in public interest. Even though the Joint Registrar has referred to the aforesaid provision, in effect, he has issued the said directions only pursuant to the order dated 05.04.2022 passed by this Court in Cont.P(MD)Nos.343 to 345 of 2022. The learned counsel appearing for the Bank informs the Court that since the President was not made a party to the contempt proceedings, he had applied for recall of the direction directing the Joint Registrar to take action against the President.

11. But as on date, the said directions are holding good and the Joint Registrar acted only pursuant to the said direction.

12. The scope of the contempt proceedings was quite limited. The petitioners in the contempt petitions had complained that even though an interim stay had been granted, it has not been complied with. In other



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words, they only wanted to be allowed to report for duty in terms of the appointment orders issued to them. Since the interim stay granted by this Court had been apparently not complied with, such direction came to be issued. However, the Joint Registrar should have limited himself to directing the Society concerned to permit the appointees to report for duty. He had no authority to direct the Society to dispense with the service of the 8 temporary employees. To this extent, I have necessarily to interfere with the order dated 30.05.2022. W.P(MD)No.12059 of 2022 is partly allowed. Consequently, connected miscellaneous petitions are closed. No costs.

19.10.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Registrar of Co-operative Societies,
NVN Natarajan Maligai,
170, EVR High Road,
Kilpauk,
Chennai – 10.
- 2.The Joint Registrar of Co-operative Societies / Chairman
District Recruitment Bureau,
Office of the Joint Registrar of Co-operative Societies,
Sivagangai.



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3. The Deputy Registrar / Managing Director,
R27, Ilaiyankudi Co-operative Urban Bank,
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Sivagangai District.



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G.R.SWAMINATHAN, J.

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19.10.2022