



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.14825 of 2021

and

WMP(MD) No.11719 of 2021

S.Murugeswari

... Petitioner

Vs.

1. The Joint Registrar of Cooperative Societies
O/o.Joint Registrar of cooperative Societies
Collectorate Campus
Virudhunagar Region, Virudhunagar.
2. The Deputy Registrar of Cooperative Societies
O/o.The Deputy Registrar of Cooperative Societies
Srivilliputhur
Virudhunagar District.
3. The President,
RA362, Rajapalayam Municipal Scavenger
Cooperative Thrift and Credit Society,
267,North Malaiyadipatti, Municipal Colony,
Rajapalayam,
Virudhunagar District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records relating to the impugned charge memorandum issued by the 3rd respondent dated 19.04.2021 and quash the same.

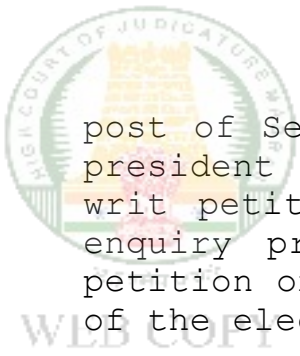
For Petitioner : Mr.R.Selvaraj, Advocate
For Respondents : Mr.M.Ramesh
Government Advocate

ORDER

The charge memo dated 19.04.2021 issued by the President of the third respondent Cooperative Society is under challenge in the present writ petition.

2.The petitioner was appointed as Attender in the third respondent Cooperative Society and subsequently promoted to the

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



post of Secretary. On account of certain allegations, the elected president of the Cooperative Society issued a charge memo to the writ petitioner on 19.04.2021. Instead of participating in the enquiry proceedings, the petitioner has chosen to file a writ petition on the ground that there is a personal grudge on the part of the elected board.

3. The third respondent Society is registered under the Tamilnadu Cooperative Societies Act and not a State within the meaning of Article 12 of the Constitution of India. Therefore, the petitioner has to exhaust the alternate remedy contemplated under the Act, more specifically, under Section 153 of the Cooperative Societies Act, 1983. Even otherwise also, no writ needs to be entertained against a charge memo as charge memo per se would not provide a cause for filing a writ petition. Charge memo cannot be construed as a grievance, as it is only initiation of disciplinary proceedings and no final decision has been taken by the competent authority. Therefore, the charge per se would not provide a cause for entertaining a writ petition. However a writ against a charge memo needs to be entertained only on limited ground, if the charge memo is tainted with the allegations of mala fides or issued by an incompetent authority, but not otherwise. Even the mala fide allegations are to be substantiated to the satisfaction of the Court. Mere statement in the affidavit in this regard are insufficient. It is to be established so as to form an opinion that the charge memorandum has been issued on certain ulterior motive and there is no substance in the allegations.

4. In view of the fact that the third respondent is working in the Society, even in case the petitioner raises such allegations of mala fide or incompetency, he has to approach the revisional authority under Section 153 of the said Act and only after exhausting the remedy, he may approach the Court of law.

5. In the present case, the charge memo has been issued against the writ petitioner. He has to participate in the enquiry proceedings and establish his innocence or otherwise. The authorities are bound to conclude the disciplinary proceedings as expeditiously as possible as long pendency of disciplinary proceedings would cause prejudice to the interest of the employee also.

6. In view of the facts and circumstances, the petitioner is at liberty to approach the revisional authority under the Act, if grievance exists or participate in the disciplinary proceedings and establish his innocence or otherwise in the manner known to law.



7. With these observations, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

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// True Copy //

Sd/-
Assistant Registrar(AE)

/ /2022
Sub Assistant Registrar(CS)

RR

To

1. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES
O/O.JOINT REGISTRAR OF COOPERATIVE SOCIETIES
COLLECTORATE CAMPUS
VIRUDHUNAGAR REGION, VIRUDHUNAGAR.
 2. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES
O/O.THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES
SRIVILLIPUTHUR
VIRUDHUNAGAR DISTRICT.
- +1 CC to M/s.SPL.Government Pleader
(SR-17494[F] dated 08/04/2022)
- +1 CC to M/s.S.SELVARAJ, Advocate
(SR-17440[F] dated 08/04/2022)

W.P. (MD) No.14825 of 2021
and
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07.04.2022

SP/29/04/2022/3P/5C