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W.P.(MD)NO.15740 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.15740 & 16100 of 2022 &
W.M.P.(MD)Nos.11329 & 11639 of 2022

W.P.(MD)No.15740 of 2022

Q 1219 Pudukudi Primary Agricultural
Cooperative and Credit Society,
Pudukudi,
Ramanathapuram,
Rep. By its President,
Varadharajan

... Petitioner

Vs.

1. The District Collector,
O/o.The District Collector,
Ramanathapuram District.
2. The Joint Registrar of Cooperative Societies,
O/o.The Joint Registrar of Cooperative Societies,
Ramanathapuram.
3. The Deputy Registrar of Cooperative Societies,
O/o.The Deputy Registrar of Cooperative Societies,
Paramakudi,
Ramanathapuram District.
4. The Joint Registrar / Managing Director,
Ramanathapuram District Central Cooperative Bank,
Ramanathapuram District.
5. Nagarathinam

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the third respondent in Na.Ka.2523/2022 THO VA SA KA SA dated 02.07.2022 and quash the same.

For Petitioner : Mr.C.Jeganathan

For R-1 to R-3 : Mr.M.Senthil Ayyanar,
Government Advocate.

For R-4 : Mr.D.Shanmugaraja Sethupathi

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W.P.(MD)No.16100 of 2022

Varadharajan

... Petitioner

Vs.

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

2. The Deputy Registrar of Cooperative Societies,
O/o.The Deputy Registrar of Cooperative Societies,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the third respondent in Na.Ka.3667/2022 Sa Pa dated 18.07.2022 and quash the same.



For Petitioner : Mr.C.Jeganathan

For R-1 to R-3 : Mr.M.Senthil Ayyanar,
Government Advocate.

For R-4 : Mr.D.Shanmugaraja Sethupathi

* * *

COMMON ORDER

Thiru.Varadharajan is the elected president of Q 1219 Pudukudi Primary Agricultural Cooperative and Credit Society. One Nagarathinam applied for a scheme loan. The said request was duly recommended for acceptance by the society by passing a resolution. Later, the circle supervisor raised some objections. It was noted that instead of disbursing a sum of Rs.4,00,000/-, a sum of Rs.2,24,000/- can be released in favour of the said Nagarathinam. Vide memorandum dated 18.12.2019, certain queries have been raised by the Central Bank. The bank did not process the matter further.

2. At this stage, a fresh application appears to have been directly received from the said Nagarathinam by the Central Bank through the Secretary of the Cooperative



Society. The Central Bank vide Order dated 25.05.2022 sanctioned grant of loan in favour of the said Nagarathinam to the tune of Rs.4,00,000/-. Since the President of the society did not disburse the loan amount even after its sanction, The Deputy Registrar issued notice dated 02.07.2022 directing him that unless the loan in question is disbursed to Nagarathinam, action will be taken under Section 166(1) of the Tamil Nadu Co-operative Societies Act. The said communication has been put to challenge in W.P.(MD) No.15740 of 2022.

3. When the matter was taken up for hearing, the learned Government Advocate informed the Court that the petitioner has been suspended under Section 76(a) of the Tamil Nadu Co-operative Societies Act. The order of suspension is put to challenge in W.P.(MD)No.16100 of 2022.

4. Even before commencing the arguments, the learned counsel appearing for the writ petitioner submitted that the society may not have any objection for disbursing the loan amount to the tune of Rs.2,24,000/-. As originally



objected by the circle supervisor, the moment the fifth respondent Nagarathinam complies with the relevant queries, the loan would be disbursed immediately and without any delay. This undertaking given by Varadharajan is placed on record.

5. I posed a question when the funds for disbursing the loan amount to the borrower come from the Central Bank as well as the subsidy sanctioned by the Government, whether the credit society is without any liability. The answer is that if the loan amount is eventually not recovered for whatever reason, the burden will have to be borne only by the society. Therefore, the Central Bank could not have directly sanctioned the loan amount in favour of Nagarathinam by bypassing the society. In this case, the Secretary appears to have mechanically sent the loan application to the Central Bank directly. There is no resolution passed by the society.

6. The Central Bank could not have directly sanctioned the loan application without a proper resolution passed by the concerned credit society. Such an order passed



by the Central Bank is sought to be authorised by the Deputy Registrar of Co-operative Societies by the impugned order dated 02.07.2022. The third respondent failed to note that the society in question has not passed any resolution in favour of the borrower. The third respondent has proceeded to issue a directive to the President of the credit society without taking note of the relevant facts. Therefore, the order dated 02.07.2022 passed by the third respondent is set aside. W.P. (MD)No.15740 of 2022 is allowed.

7. The Joint Registrar of the Co-operative Society has passed an order dated 18.07.2022 suspending the petitioner on the ground that he had failed to sanction the disbursed loan amount of Rs.4,00,000/- in favour of Nagarathinam even though the Central Bank had sanctioned the same. In the other writ petition, I have held that such a sanction was given by the Central Bank overlooking the usual procedure. The order is bad in law. This foundational basis of the impugned order dated 18.07.2022 stands undermined. The petitioner draws my attention to the decision reported in **2021 (6) CTC 349, (D.Krishnamoorthy and another Vs.**



The Registrar of Co-operative Society(Housing) and

another). A learned Judge of this Court had held that Section 76(a) of the Act can be invoked only if two conditions are satisfied; a) prima facie evidence against the office bearers; and b) suspension of the office bearers is necessary in the interest of such society or in public interest.

8. The suspension order has been passed without any basis. The order impugned in W.P.(MD)No.16100 of 2022 stands set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

26.07.2022

Index : Yes / No

Internet : Yes/ No

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To:

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O/o.The District Collector,
Ramanathapuram District.
2. The Joint Registrar of Cooperative Societies,
O/o.The Joint Registrar of Cooperative Societies,
Ramanathapuram.
3. The Deputy Registrar of Cooperative Societies,
O/o.The Deputy Registrar of Cooperative Societies,
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W.P.(MD)NO.15740 OF 2022

G.R.SWAMINATHAN,J.

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W.P.(MD)Nos.15740 & 16100 of 2022

26.07.2022