



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.19374 of 2022
and
WMP(MD)No.17319 of 2022

N.Sorimuthu

... Petitioner

vs.

1.The Joint Registrar of Co-operative Societies,
Tirunelveli Region, Tirunelveli.

2.The Deputy Registrar of Co-operative
Societies, Tenkasi Circle, Tenkasi.

3.The President,
O.1902 Alangulam Primary Agricultural
Co-operative Credit Society,
Alangulam, Tenkasi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the show cause notice dated 13.07.2022 in Na.Ka.No.4964/2022/Thovesa issued by the first respondent and quash the same.



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For Petitioner : Mr.D.Venkatachalam
For Respondents : Mr.M.Senthil Ayyanar,
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The petitioner was employed as the Secretary of the third respondent society. He was suspended from service vide order dated 15.02.2018. Since he came under the adverse notice due to the enquiry held under Section 81 of the Tamil Nadu Cooperative Societies Act, the President of the Society issued charge memo dated 04.05.2018. An advocate was appointed as enquiry officer. The enquiry officer gave a report holding that out of 14 charges, only 3 charges stood proved. Thereafter, the president of the society passed order dated 02.11.2020 imposing punishment of stoppage of increment for one year without cumulative effect. Thereafter, the first respondent has issued the impugned communication dated 13.07.2022. He has enclosed the copy



of the enquiry report and called upon the petitioner to offer his explanation. The said communication is put to challenge in this writ petition.

3.The learned counsel appearing for the petitioner reiterated the contention set out in the affidavit filed in support of the writ petition. His core contention is that when once the competent authority had imposed the punishment, it is not open to the first respondent to reopen the very same issue. His further contention is that during the relevant time, the president of the society was very much competent to pass the suspension order. He would also state that though the co-operative society secretaries became cadre employees in the year 2019, the first respondent chose to permit the third respondent to proceed with the disciplinary action. He was therefore estopped from issuing the impugned communication. He would also allege that the impugned communication is vitiated by malice.

4.The respondents have filed counter affidavit and the learned Government counsel took me through its contents. He submitted that no interference is called for at this stage.



WEB COPY 5.I carefully considered the rival contentions and went through the materials on record. It is not in dispute that when the President of the Co-operative society issued charge memo on 04.05.2018, the Secretary of the society had not been under common cadre service. Only during the year 2019, they became common cadre employees. Therefore, in the year 2020, the president could not have passed the order dated 02.11.2020 imposing punishment of stoppage of increment on the petitioner. Such an order on the face of it was without jurisdiction. That apart, the President of the Society had already suffered disqualification way back in February, 2020. She was continuing to act as the President of the Society only by virtue of the interim order granted by this Court in WP(MD)No.6273 of 2022. The said writ petition eventually came to be dismissed. In these circumstances, the first respondent has issued the impugned communication. It is a notice. It only calls upon the petitioner to offer his explanation. He can raise all the contentions open to him before the first respondent. There is nothing on record to show that the first respondent has pre-determined the issue.



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6. Leaving open all the contentions, the writ petition is dismissed.

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No costs. Connected miscellaneous petition is closed.

20.10.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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