



WEB COPY

W.P.(MD)No.4034 of 2015:

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)Nos.4034 and 4035 of 2015

and

M.P. (MD)Nos.1 and 1 of 2015

W.P. (MD)No.4034 of 2015:

R.A.412, Aruppukottai Panchayat Union
School and Aided School Teachers
Cooperative Thirft and Credit Society
Limited,
represented by its Secretary,
Aruppukottai,
Virudhunagar District.

... Petitioner

vs.

1.The District Collector,
Virudhunagar District.

2.The Block Development Officer,
Aruppukottai Panchayat Union,
Virudhunagar District.

3.The Commissioner,
Narikudi Panchayat Union,
Virudhunagar District.

4.K.Dhanasekaran

... Respondents

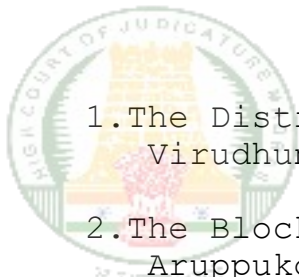
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second and third respondents to withhold the gratuity amount payable to the fourth respondent to the extent to satisfy the loan amount and remit the same to the petitioner society, namely R.A.412, Aruppukottai Panchayat Union School and Aided School Teachers Cooperative Thirft and Credit Society Limited, in complying with Section 48 of Tamil Nadu Cooperative Societies Act.

W.P. (MD)No.4035 of 2015:

R.A.412, Aruppukottai Panchayat Union
School and Aided School Teachers
Cooperative Thirft and Credit Society
Limited,
represented by its Secretary,
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- 3.The Commissioner,
Aruppukottai Panchayat Union,
Virudhunagar District.

4.A.Karuppasamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second and third respondents to withhold the salary payable to the fourth respondent to the extent to satisfy the loan amount and remit the same to the petitioner society, namely R.A.412, Aruppukottai Panchayat Union School and Aided School Teachers Cooperative Thrift and Credit Society Limited, in complying with Section 48 of Tamil Nadu Cooperative Societies Act.

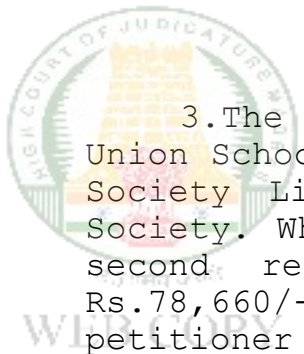
In both cases:

For Petitioner	: Mr.D.Shanmugaraja Sethupathi, Advocate
For R1 to R3	: Mr.D.Sachi Kumar Additional Government Pleader
For R4	: No appearance

COMMON ORDER

The Writ Petition in W.P.(MD)No.4034 of 2015, is filed for issuance of a Writ of Mandamus, to direct the second and third respondents to withhold the gratuity amount payable to the fourth respondent to the extent to satisfy the loan amount and remit the same to the petitioner society, namely R.A.412, Aruppukottai Panchayat Union School and Aided School Teachers Cooperative Thrift and Credit Society Limited, in complying with Section 48 of Tamil Nadu Cooperative Societies Act.

2.The Writ Petition in W.P.(MD)No.4035 of 2015, is filed for issuance of a Writ of Mandamus, to direct the second and third respondents to withhold the salary payable to the fourth respondent to the extent to satisfy the loan amount and remit the same to the petitioner society, namely R.A.412, Aruppukottai Panchayat Union School and Aided School Teachers Cooperative Thrift and Credit Society Limited, in complying with Section 48 of Tamil Nadu Cooperative Societies Act.

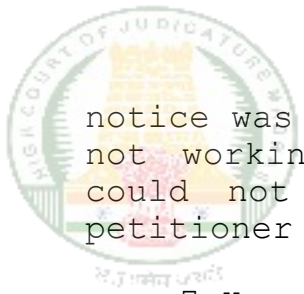


3.The petitioner is the Secretary of Aruppukottai Panchayat Union School and Aided School Teachers Cooperative Thrift and Credit Society Limited. The fourth respondent is the member of the Society. While he was working as a Rural Welfare Officer under the second respondent, the fourth respondent obtained loan for Rs.78,660/-, from the petitioner Society on 03.06.2002. The petitioner entered into a statutory contract under Section 48 of Tamil Nadu Cooperative Societies Act. As per the agreement, the second respondent being Pay Disbursing Officer, shall deduct the monthly installment from his salary and pay the same to the Society. If the fourth respondent cease to be an employee of the second respondent, the future employer shall deduct the salary to the extent of monthly instalment payable by the fourth respondent and remit the same to the Society.

4.In pursuance to the agreement, the Pay Disbursing Officer, i.e., the second respondent has given the certificate of undertaking, wherein he has agreed to recover the amount on demand from the fourth respondent. Subsequently, the fourth respondent was transferred to Narikudi Panchayat Union in the year 2006 and was working under third respondent. The second respondent had not deducted the amount towards loan instalment from the salary and the fourth respondent had not paid the same. Therefore, the petitioner Society initiated Arbitration proceeding, under Section 90 of Tamil Nadu Co-operative Societies Act. In pursuance of the same, a decree was passed on 29.06.2009, against the fourth respondent wherein he was held liable to pay the loan amount along with interest. The Society had been continuously sending monthly demand notice to the second respondent but the second respondent had not responded. The petitioner received a letter, dated 03.08.2011, from the third respondent, whereby, it was informed that the fourth respondent has abandoned his job and his whereabouts are not known.

5.The petitioner society submitted a representation, dated 24.02.2015 to the third respondent requesting them to take necessary action as per the agreement and remit the loan money to the petitioner Society from the salary of the fourth respondent. As on 24.02.2015, the fourth respondent has paid a sum of Rs.3,31,765/-. Therefore, the petitioner Society has come forward with a Writ Petition to direct the second and third respondent to withhold the gratuity amount payable to the fourth respondent to the extent to satisfy the loan amount and remit the same to the petitioner Society.

6.The third respondent has filed a counter affidavit stating that the fourth respondent was posted as Assistant in the third respondent Panchayat Union. No communication was received from the petitioner society for making recovery. However, a notice was received by the third respondent, but since the fourth respondent was absconding and not attending duties, the same was informed to the petitioner Society, vide order, dated 03.08.2011 and the demand



notice was returned with reference. Since the fourth respondent was not working in the third respondent Panchayat Union, recoveries could not be affected and the fact was also informed to the petitioner Society.

7. Heard Mr.D.Shanmugaraja Sethupathi, learned Counsel appearing for the petitioner and Mr.D.Sachi Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3. The fourth respondent name is printed and is not represented by any one and not appeared in person.

8. Section 48 of the Tamil Nadu Co-operative Societies Act, is a statutory provision and it is binding on all the Co-operative Societies. The second respondent in fact has given an undertaking to deduct and remit the amount. But, the third respondent submitted that since the fourth respondent is absconding and not reported to duty, it is not deducted from his salary. Therefore, it is not possible for the respondent to deduct the salary and remit it to the petitioner society.

9. The 4th respondents in both the writ petitions have taken loan and are bound to pay the loan amount. The writ petitioner is a society and is dealing with the public money, therefore the 4th respondent in both the writ petitions cannot escape from paying the amount. Therefore, this Court directs the respondents 1,2 and 3 to remit whatever amount is under the account of fourth respondent including gratuity or salary shall be paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

10. As far as the Writ Petition W.P.(MD)No.4034 of 2015 is concerned, the petitioner submitted that the fourth respondent was in service. He might have attained superannuation by this time but, the petitioner is not aware of the fact. Be that as it may, the respondents shall deduct from the salary of the fourth respondent if he is still in service or shall deduct whatever terminal benefits or pension or gratuity is available and remit the amount to the petitioner society within a period of four weeks from the date of receipt of a copy of this order.

11. With the above direction the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

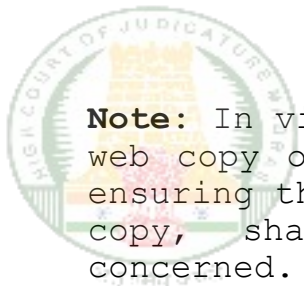
Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

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To

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4.The Commissioner,
Aruppukottai Panchayat Union,
Virudhunagar District.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-1759[F] dated 19/01/2022)

+1 CC to M/s.SPL.GP (SR-1724[F] dated 19/01/2022)

**W.P. (MD) Nos. 4034 and 4035 of 2015
12.01.2022**

RS (25.02.2022) 5P-7C