



W.P(MD)No.842 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.842 of 2017

The Secretary,
E.E.429, Athinathapuram Primary Agriculture
Co-operative Credit Society,
Alwarthirunagari,
Thoothukudi District.

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Thoothukudi.

2.The Deputy Registrar of Co-operative Societies,
Thiruchendur Circle,
At Veerapandiaya Pattinam,
Thiruchendur Taluk,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent relating to the revision petition No.1/2015 in his proceedings Na.Ka.2495/15 Sa O dated 14.11.2016 quash the same and consequently direct the respondents to accord approval of the amendment of the petitioner's society in its bye law and special bye law, approval applied for on



W.P(MD)No.842 of 2017

20.11.2014 or to pass an order saying that the approval is deemed to have been given within a specific time to be fixed by this Court.

For Petitioner : Mr.K.Sathya Singh,
For Mr.P.Senthur Pandian

For Respondents : Mr.P.Thilak Kumar,
Government Pleader

ORDER

Heard the learned counsel for the writ petitioner and the learned Government Pleader for the respondents.

2.The writ petitioner is a primary agriculture cooperative credit society. The petitioner passed a resolution for surrendering two fair price shops run by them and for altering the service conditions. The proposal submitted by the petitioner was returned by the second respondent on the ground that the recommendations from the cooperative sub-registrar as well as the field officer were not enclosed. The petitioner society resubmitted the proposal after enclosing the necessary recommendations. Again, the second respondent returned the proposal. Therefore, the petitioner moved the first respondent under Section 152 of the Tamil Nadu Cooperative Societies Act. The first respondent also confirmed the stand taken by the second respondent. To this



W.P(MD)No.842 of 2017

effect, the impugned order dated 14.11.2016 was passed. Challenging the same, this writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned order and direct the respondents to register the amendments proposed by the society.

4.Per contra, the learned Government Pleader submitted that throughout Tamilnadu fair price shops are run only by the cooperative societies. Therefore, the request of the writ petitioner for surrender of fair price shops cannot be accepted. He would also add that the term of the earlier elected body had already expired and a new body has been constituted. It is quite possible that the new body may be willing to run the fair price shops in question. He also submitted that the quorum requirements for convening the general body were not met in this case.

5.I carefully considered the rival contentions and went through the materials on record.



W.P(MD)No.842 of 2017

WEB COPY

6. Section 11 of the Tamil Nadu Cooperative Societies Act deals with amendment of the by-laws of a registered society. It is not enough if a Society passes a resolution for amendment. It has to be registered under the Act by the Registrar. If the Registrar is satisfied that an amendment of the by-laws is not contrary to the provisions of the Act or the rules or to co-operative principles or to any other law applicable to society, he may register the amendment. No order refusing to register the amendment shall be passed except after giving the society an opportunity of making a representation. A reading of the impugned order passed by the first respondent does not indicate that he took into account Section 11(3) of the Act. Therefore, the impugned order is quashed and the matter is remitted to the file of the first respondent to pass order afresh in accordance with law.

7. The writ petition is disposed of accordingly. No costs.

30.06.2022

Index : Yes / No
Internet : Yes/ No
ias



W.P(MD)No.842 of 2017

To:

1. The Joint Registrar of Co-operative Societies,
Thoothukudi.
2. The Deputy Registrar of Co-operative Societies,
Thiruchendur Circle,
At Veerapandiaya Pattinam,
Thiruchendur Taluk,
Thoothukudi District.



WEB COPY



W.P(MD)No.842 of 2017

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.842 of 2017

30.06.2022