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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.373 of 2020

and

W.M.P.No.423 of 2020

K.Velu

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Thirukoilur Circle, Thirukoilur, Villupuram District.

2. I1549, K.Mudiyanur Primary Agricultural
Co-operative Credit Society Ltd.,
Rep by its President,
K.Mudiyanur Post, Kallakurichi Taluk,
Villupuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records of the order passed in Na.Ka.No.1973/2011.Tho.Ve.Sa. dated 18.10.2019 on the file of the first respondent and consequential order of reversion passed by the second respondent dated 02.01.2020 quash the same.

For Petitioner	:	Mr.M.S.Palaniswamy
For Respondents	:	M/s.C.Meera Arumugam, Additional Government Pleader, For R1. Mr.G.Mohanraj, For R2.



ORDER

This petition has been filed to call for the records of the order passed in Na.K.No.1973/2011.Tho.Ve.Sa. dated 18.10.2019 on the file of the first respondent and consequential order of reversion passed by the second respondent dated 02.01.2020 quash the same.

2. It is submitted by the learned counsel for the petitioner that the petitioner was appointed as Salesman in the second respondent Society on 16.05.1992. After completion of 20 years of satisfactory service rendered by him, the petitioner was promoted as Junior Clerk on 26.10.2012. Thereafter, he was promoted as a Clerk on 01.01.2018. The first respondent without enquiry or notice, passed an order directing the second respondent to revert the petitioner from Clerk to Junior Clerk. Following the direction of the first respondent, the second respondent reverted the petitioner from Clerk to Junior Clerk on 02.01.2020 without any notice or enquiry.

3. This Court considered the submissions made by learned counsel for the petitioner and also perused the materials available on record.

4. It is well settled that any order passed without giving notice to the



affected party is in violation of the principles of natural justice. In the case of

N.K.Durga Devi Vs Commissioner of Commercial Taxes, Hyderabad and others reported in (1997) 11 SCC 9, the Hon'ble Supreme Court held that the order which affects the rights of parties passed in violation of the principles of natural justice and without hearing to the affected parties is void and unenforceable in law. In paragraph 3, the Hon'ble Supreme Court held as under:-

"3. In view of the decisions of this Court in Govt. of A.P. Vs. D.Janardhana Rao, R.R.Verma Vs. Union of India and Amrik Singh Vs. Union of India, it is conceded by the learned counsel for Respondent 3 that the order of relaxation could not have been validly passed without giving notice to all affected parties since that would be in violation of the principles of natural justice. The position in law is quite clear. A relaxation order which affects rights of third parties, if passed in violation of the principles of natural justice and without giving a hearing to the affected parties would be void, or in any event, unenforceable in law. The impugned Government Order No.569, dated 22.05.1986 is, therefore, set aside."

(emphasis supplied)



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5. In the case on hand, admittedly, no notice was served on the petitioner and no opportunity was given before passing the impugned order.

The aforesaid act of the respondents is in clear violation of the principles of natural justice.

6. In view of the factual matrix of the case and following the ratio laid down by the Hon'ble Supreme Court *in the case of N.K.Durga Devi, supra*, this Court is of the considered view that the impugned orders are unsustainable and the same are liable to be quashed and the impugned orders are quashed.

7. In the result, the writ petition stands allowed. Consequently, connected miscellaneous petition is closed.

12.07.2023

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Speaking Order : Yes/No

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To:

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Thirukoilur, Villupuram district.
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J.SATHYA NARAYANA PRASAD,J.

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