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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3268 of 2023
and
W.M.P. Nos. 3320, 3321 and 8855 of 2023

R.Solairaj … Petitioner

-vs-

1. The Commissioner of Milk Production
   and Dairy Development,
   Mathavaram Milk Colony,
   Chennai – 600051.

2. The Managing Director,
   Tamil Nadu Co-operative Milk Producers Union Ltd.,
   Nandanam, Chennai.

3. The General Manager,
   Madurai District Co-operative Milk Producers Union Limited,
   Sivagangai Road,
   Sathamangalam,
   Madurai –20.

4. Deputy Registrar (Dairying),
   Madurai District Co-operative Milk Producers Union Ltd.,
   Sivagangai Main Road, Sathamangalam,
   Madurai – 20. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the Third Respondent in

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Na. Ka. No. 65/tho.u/2023 dated 04.01.2023 and quash the same and consequently direct the Respondents to permit the Petitioner to continue in the same post within a reasonable time with back wages and other consequential attendant benefits from the date of termination.

For Petitioner : Ms. D.Vijayalakshmi

For Respondents : Mrs. R.Anitha,
Special Government Pleader (for R1 & R4)

Mr. J.Ravindran,
Additional Advocate General
assisted by Mr. V.Rajinikanth (for R2 & R3)

O R D E R

Heard Ms. D.Vijayalakshmi, Learned Counsel for the Petitioner, Mrs. R.Anitha, Learned Special Government Pleader appearing for the First and Fourth Respondents and Mr. J.Ravindran, Learned Additional Advocate General assisted by Mr. V.Rajinikanth, Learned Counsel for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The cancellation of the appointment of the Petitioner in the services of Madurai District Co-operative Milk Producers Union Ltd., is assailed in this Writ Petition.

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3. It is not in dispute that the offices of the Third and Fourth Respondents are situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated by the Petitioner for approaching the Principal Seat of this Court instead of Madurai Bench is that the offices of the First and Second Respondents are located in Chennai. There cannot be any doubt that the First and Second Respondents exercise powers for the whole of the State of Tamil Nadu, but it cannot mean as if the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai. Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this Court, the principle of *forum conveniens* would come into play as held by the Division Bench of this Court in ***C.Ramesh -vs- Director General of Police*** (Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), as follows:-

> *"7. Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTEHRS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].*

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8. It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].

9. Referring to KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA (2004 (3) CTC 365), a Full Bench of this Court in SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE AND OTHERS (2007 (5) CTC 305), held as under:-

> *"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY, AIR 1941*

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CAL 670 : ILR (1941) 1 CAL 490; MADANLAL JALAN Vs. MADANLAL, 1945 (49) CWN 357: AIR 1949 CAL 495; BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN 122; S.S.JAIN & CO. Vs. UNION OF INDIA, 1994 (1) CHN 445, and NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126]."

10. Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)].

11. A Court cannot arrogate/assume/confer upon itself a jurisdiction-territorial jurisdiction, when it has no such

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jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time. Courts are barred from indulging in hypothetic and academic exercises."

Having regard to the aforesaid legal position *viz-a-viz* factual matrix of this case, the cause of action for the Writ Petition, would have to be necessarily construed as having arisen wholly outside the territorial limits of jurisdiction of the Principal Bench of this Court, notwithstanding that the offices of the First and Second Respondents are located in Chennai. Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

4. When it is pointed out that the Writ Petition cannot be entertained in the Principal Seat of this Court in that backdrop, Learned Counsel for the Petitioner seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition for the same relief before the Madurai Bench of this Court and he has made an endorsement to that effect in the court record.

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In fine, the Writ Petition is dismissed as withdrawn granting such liberty.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No
Neutral Citation: Yes/No

Note: (i) Issue order copy on 20.04.2023

(ii) Registry is directed to return the impugned order under written acknowledgment after retaining a copy of the same for record.

To

1. The Commissioner of Milk Production
   and Dairy Development,
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   Chennai – 600051.

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P.D. AUDIKESAVALU, J.

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