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W.P. No. 8112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM

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

W.P. No. 8112 of 2023

and

W.M.P. Nos. 8361 and 8362 of 2023

R.Jayakumar

... Petitioner

-VS-

1. The Registrar
Co-operative Societies
Office of Registrar
Chennai.
2. The Joint Registrar
Co-operative Societies
Coimbatore Region
Coimbatore.
3. The Deputy Registrar
Co-operative Societies
Pollachi Circle
Pollachi.

... 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 relating to the impugned order dated 20.09.2022 in Na.Ka. 1336/2020/PT passed by the Third Respondent and quash the same as illegal and consequently direct the Respondents not to deduct the excess amount which was paid to the Petitioner from the salary.



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For Petitioner : Mr. M.Sudhan

For Respondents : Mr. B.Vijay
Additional Government Pleader

ORDER

Heard Mr. M.Sudhan, Learned Counsel for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in Na. Ka. No. 1336/2020/PaTho dated 20.09.2022 passed by the Third Respondent in which the Petitioner has been required to remit the sum of Rs. 6,86,154/-, which is said to have been excessively paid to him and in the event of failure to do so, the same would be recovered from his salary, with a consequential direction to the Respondents not to deduct the excess amount which was paid to him from his salary.



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3. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in *State of Punjab -vs- Rafiq Masih (Whitewasher)* [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

4. There is nothing to show either in the impugned order that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from him with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order passed by the Third Respondent is set aside leaving it open to the



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concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to him and after affording full opportunity of personal hearing to him and considering each of the objections that may be raised by him, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgment.

5. In the event of the concerned authorities failing to initiate fresh such proceedings within 30.06.2023, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to him under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.



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In fine, the Writ Petition is ordered on the aforesaid terms. Consequently,

the connected Miscellaneous Petitions are closed. No costs.

16.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 30.05.2023.

To

1. The Registrar
Co-operative Societies
Office of Registrar
Chennai.
2. The Joint Registrar
Co-operative Societies
Coimbatore Region
Coimbatore.
3. The Deputy Registrar
Co-operative Societies
Pollachi Circle
Pollachi.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

Maya

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