



W.P(MD).Nos.501 of 2023 etc.,

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
28.02.2023	29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. (MD) NOS. 501, 522, 523, 524, 530, 537, 510, 531, 536, 606, 541, 542, 607, 706, 1255, 432, 502, 503, 535, 709, 988, 507, 508, 509, 533, 534, 538, 504, 505, 506, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 525, 526, 527, 528, 529, 532, 539, 540, 1383, 3009, 3006, 1385, 1386, 1387, 1388, 1389, 1390 & 1384 OF 2023 & 29228 OF 2022

AND

W.M.P. (MD)NOS.487, 481, 490, 488, 515, 491, 508, 528, 545, 546, 503, 504, 505, 492, 493, 494, 520, 547, 548, 540, 541, 542, 506, 507, 509, 518, 486, 477, 478, 479, 480, 1164, 1165, 468, 475, 482, 483, 484, 485, 489, 495, 496, 497, 498, 499, 500, 501, 502, 510, 511, 512, 513, 514, 516, 517, 519, 521, 522, 523, 524, 525, 526, 527, 529, 530, 532, 533, 534, 535, 536, 537, 538, 539, 543, 544, 549, 550, 551, 594, 598, 702, 703, 709, 710, 926, 927, 469, 470, 471, 401, 467, 476, 473, 474, 472, 2936, 2937, 2932, 2831, 2930, 1282, 1285, 1280, 2830, 2933, 2827, 2828, 2934, 2935, 2938, 1273, 1275, 1279, 1288 & 1291 OF 2023 & 23181 OF 2022

W.P. (MD) No. 501 of 2023

R.Logeshwaran

.. Petitioner

- Vs -

- The Commissioner of Milk Production
& Dairy Development Department
Mathavaram Mill Colony
Chennai 600 051.



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- The General Manager
Tiruchirappalli District Cooperative
Milk Producers Union Limited
Pudukottai Road, Kottapattu
Tiruchirappalli 620 023.
- The Deputy Registrar (Dairy)
Tiruchirappalli District Cooperative
Milk Producers Union Limited
Old Collectorate Office Campus
Tiruchirappalli 620 001.

.. Respondents

W.P. (MD) No.501 of 2023 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 2nd respondent General Manager in Na. Ka. No.24714/P&E/2019 dated 03.01.2023 cancelling the appointment of the petitioner from the post of Senior Factory Assistant, quash the same and further direct the 3rd respondent to reinstate the petitioner into service forthwith with continuity of service, seniority, salary and allowances and all other attendant benefits.

For Petitioners : Mr. IssacMohanlal, SC, for
M/s.Issac Chambers in
WP (MD) Nos.501 to 542, 432, 706
& 709/2023
Mr. T.Lajapathy Roy, SC, for
M/s.Lajapathi Roy Associates in



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WP (MD) Nos.606 & 607, 1383
to 1390/2023

Mr. T.Chandrasekaran in WP (MD)1255/23

Mr. R.Senthilkumar in WP (MD) 988/23

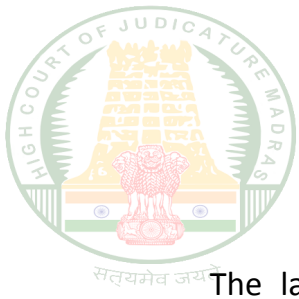
Mr. R.Maheswarain in WP (MD) 3006 &
3009/2023

Mrs. A.Banumathy in WP (MD) 29228/22

For Respondents : Mr. A.Veerakathiravan, AAG
Assisted by Mr. S.P.Maharajan, Spl. GP
For RR-1 & 3 in WP (MD) 501 to 542, 432,
706, 709, 606, 607, 988, 1383 to 1390/23
& for RR-1, 2 & 4 in WP (MD) Nos.1255,
3006 & 3009/23
Mr. J.Devasena, Std. Counsel for R-2
In WP (MD) Nos.501 to 542, 432, 706 &
709/23 & 29228/22 & for RR-3 to 5 in WP
(MD) No.3006/2023
Mr. K.Prabhu, Std. Counsel for R-2 in
WP (MD) 606, 607, 988, 1383 to 1390/23
& for RR-2 and 5 in WP (MD) 1255
& 3009/23

COMMON ORDER

The advent of the co-operative movement in the State started with the aim of encouraging people to produce, buy and sell commodities together while sharing in the profits. For achieving the said objective, Part IX-B was inserted by the Constitution (Ninety-Seventh Amendment) Act, 2011 with effect from 15.2.2012, which carried within its fold Articles 243ZH to 243ZT.



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The laudable object with which the co-operative society is formed is to inculcate the spirit to work in a group freely for rendering benefit to its members through cooperative contributions. In the aftermath of the inclusion of Articles 243ZH to 243ZT through the Constitution (Ninety-Seventh Amendment) Act, 2011, while the District Co-operative Milk Producers Union, famously known as 'Aavin' was formed, which brought within its fold the cattle breeders, who could supply and sell their milk on a centralised platform; equally for Agricultural produce, separate centralised platform was created, which catered to the need of agriculturists. The State of Tamil Nadu has been the pioneer in the co-operative movement and the vision with which the co-operative movement was started had not only proved to be a boon in disguise to the small traders, who were able to realise the fruits of their labour immediately, but also provided that the labour put in by such of those persons does not go waste. An effective mechanism was thus created which brought the producer and the consumer in close proximity. However, the vision, of late, has been scaled down by certain acts, which are being perpetrated in the co-operative societies, more especially in appointment of personnel and also the management of funds, which has grossly affected the growth of the co-



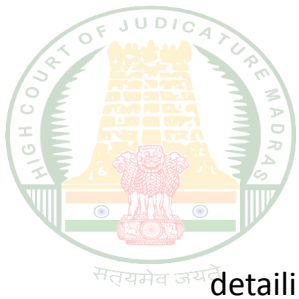
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operative movement.

2. In the above context, the co-operative societies, which are covered under the present petitions, invoking the Special Bye Laws governing the service conditions of employees of District Co-operative Milk Producers Unions (for short 'DCMPU'), more particularly Rule 7 (1) of the rule relating to recruitment, having appointed the petitioners herein in various cadres in the common cadre posts in the year 2021, which appointments have been cancelled in the year 2022 by the 1st respondent after conduct of enquiry, initiated u/s 81 of the Tamil Nadu Co-operative Societies Act, 1983 (for short 'the Act'), resulting in the termination of the petitioners, is put in issue by the petitioners in the present batch of petitions.

3. The appointment of the petitioners, in various cadres, alleged to be against sanctioned posts, have come to be made by the respective 2nd respondent/General Manager of the respective Co-operative Societies. The facts in all the writ petitions are almost identical, barring the dates and, therefore, the facts, as spoken to in W.P. (MD) No.501 of 2023 is taken up for



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detailing the facts.

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4. In the above backdrop of the factual situation, the gist of the case of the petitioners is that pursuant to employment notification by way of advertisement dated 22.11.2019 inviting applications for filling up various regular sanctioned posts in the co-operative societies spread across the State, response was made by the petitioners by submitting necessary application, which resulted in the issuance of Hall Tickets for written test. The written test was alleged to have been conducted at various centres viz., Jamal Mohammed College, Tiruchirappalli, Madurai Kamaraj University, G.S.Higher Secondary School, etc. The successful candidates were called for certificate verification and interview before the Committee and, thereafter, on coming out successful were appointed in various positions. The above said sequence with regard to appointment of each and every candidate was followed by the respective cooperative society. In sum and substance, the stand of the petitioners is that they were recruited by means of a selection process in which they participated and came out successful, whereinafter, they were appointed to the respective posts and thus their selection is as per the provisions of the Act and the Rules.

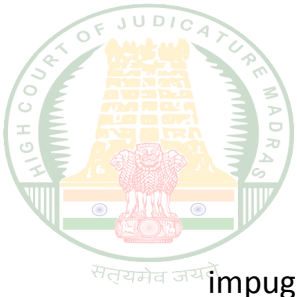


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5. However, out of the blue, the 3rd respondent issued enquiry notice dated 19.3.2022 u/s 81 of the Act directing the petitioners and other persons, who were recruited in the same selection process to appear for enquiry on 29.3.22, which was complied with by the petitioners. After conduct of enquiry, the 2nd respondent passed the order cancelling the appointment of the petitioners vide the respective impugned proceedings on the ground that the appointments were made without following the cadre strength and the Employees Special Bye Laws and also without resorting to the provisions of the Act and the Rules. Aggrieved by the said cancellation of appointment, the present batch of writ petitions have been filed by the individual petitioners.

6. The learned senior counsel/learned counsel appearing for the respective petitioners, at the threshold, attacked the impugned order on the ground of its arbitrariness, illegality and unconstitutionality. It is the further submission of the learned counsel that the impugned orders suffer from violation of principles of natural justice as neither any notice nor any opportunity of hearing was provided to any of the persons before passing the



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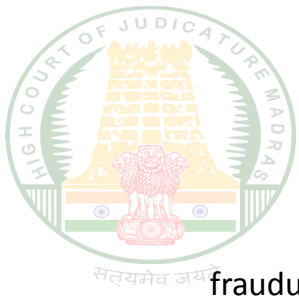
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impugned order by the 2nd respondent. Therefore, the order passed by the 2nd respondent is *ex facie* illegal.

7. It is the further submission of the learned counsel that the impugned order is bereft of any reason, as the impugned order does not reveal as to what the cadre strength is and how the cadre strength has been overshoot by appointing the petitioners over and above the cadre strength.

8. It is the further submission of the learned counsel that when the appointment of the petitioners is made by following a proper recruitment process and against the sanctioned post, the impugned order of the 2nd respondent, passed almost after a year and 10 months of the appointment of the petitioner citing that the selection process is a farce and the appointment is beyond the cadre strength is wholly unreasonable.

9. It is the further submission of the learned counsel that the enquiry contemplated u/s 81 relates only to the constitution, working and financial condition of a registered society or for any alleged misappropriation,



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fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to the society or into any particular aspect of the working of the society. However, in the case on hand, the enquiry does not fall within any of the instances shown in Section 81 and the enquiry is conducted alleging irregularity in the selection process, which is not contemplated under Section 81 and, therefore, the enquiry itself is not maintainable.

10. The categorizing of the appointment of the petitioners as 'Back Door Entrants', is wholly unreasonable, as the petitioners have been selected based on a proper selection process having been undertaken by the respondents. Once the appointments are made by following a selection process, the rigours of the decision in ***Secretary, State of Karnataka & Ors. – Vs – Umadevi (3) & Ors. (2006 (4) SCC 1)***, would not stand attracted and the appointments of the petitioners would stand protected by the very same decision.



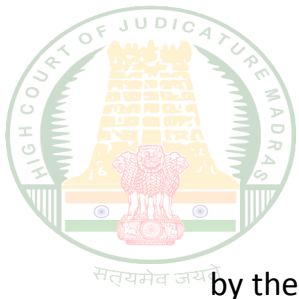
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11. It is the further submission of the learned counsel that not only the appointments are within the cadre strength but even the communal roster has been followed.. It is the further submission of the learned counsel that the formation of new District Cooperative Milk Units led to the arising of new vacancies, which were approved by the 1st respondent and, therefore, the present action of the 2nd respondent, allegedly on the premise that the appointments are beyond the cadre strength is nothing but an invention to oust the petitioners from the services of the respondent.

12. It is the further submission of the learned counsel that all the procedures with regard to recruitment contemplated under the Act and Rules as also the Special Bye Laws of the Society were duly complied with while recruiting the petitioners and, therefore, the claim of the respondents that there is violation of the provisions in the appointment is wholly misconceived.

13. It is the further submission of the learned counsel that there is due compliance of Rule 149 of the Tamil Nadu Cooperative Societies Rules (for short 'the Rules') and the procedural irregularities which has been pointed out



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by the respondents in the impugned order have been complied with and there is no material to infer otherwise. Such being the case, the stand of the respondents that the appointment of the petitioners is a *mala fide* act, is wholly unsustainable. Accordingly, learned counsel for the petitioners pray for setting aside the impugned orders by allowing the present petitions.

14. In support of the aforesaid submissions, learned counsel appearing for the petitioners placed reliance on the decision in ***Benny T.D. &Ors. – Vs – Registrar of Co-operative Societies &Anr. (1998 (5) SCC 269)***.

15. Per contra, learned Addl. Advocate General appearing for the respondents fairly concedes that there is no violation with regard to the appointments being within the cadre strength. However, the attack mounted on the appointments by the learned Advocate General is totally on the non-compliance of the procedures contemplated under the Act.

16. It is the further submission of the learned Addl. Advocate General that the proposal mooted out for appointments to the various posts was in the



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year 2019 pursuant to which list was called for from the employment exchange. However, for more than a year and a half, the posts were not filled up and the advertisement was given for filling up the posts only in the fag end of 2020 and the posts were filled up in 2021. The list given by the employment exchange lapses after a period of six months and unless the same is validated by getting extension from the appropriate authority, the list cannot be utilized for filling up the post. However, for reasons best known, the said list is alleged to have been utilized for filling up the posts, which is wholly illegal.

17. It is the further submission of the learned Addl. Advocate General that appointment order was issued on the very date when the interview was conducted, which casts a serious doubt in the whole selection process. It is the further submission of the learned Addl. Advocate General that prior permission of the 1st respondent ought to be taken for filling up the cadre posts, however, no such permission was taken and only after appointment of the persons, post-facto approval was obtained from the 1st respondent, which is not in consonance with the provisions contemplated under the Act and the Rules and, thereby, renders the appointments illegal.



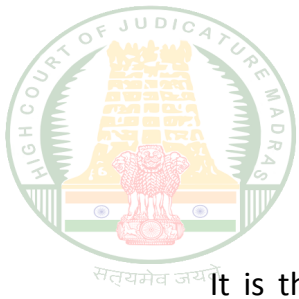
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18. It is the further submission of the learned Addl. Advocate General that the exams ought to be conducted by the Deemed Universities/Autonomous Universities approved for this purpose, however, the examination has been conducted by Mahindra Engineering College and that there is no written agreement between the Union and the Engineering College for conducting the exams.

19. It is the further submission of the learned Addl. Advocate General that a single committee had selected all the candidates for various posts on the very same day by conducting personal interview, which clearly shows that not only all is not well, but a suspicion also arises as to the genuineness of the entire appointment process.

20. It is the further submission of the learned Addl. Advocate General that though the petitioners claim that written examination was conducted, however, the OMR sheets, which were used in the examination is not made available by the college to authenticate that, indeed, exams were conducted.



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It is the further submission of the learned Addl. Advocate General that the OMR sheets were never produced before the Selection Committee when interview was conducted for the purpose of comparing the same with the answer sheets, which is a procedure to authenticate the genuineness of the exams and in the absence of the same, the authenticity of the conduct of exams itself is questionable, which clearly shows that there has been a collusion between the union and the candidates.

21. It is the further submission of the learned Addl. Advocate General that the absence of OMR sheets clearly reveal that no exams were conducted and in the absence of conduct of competitive exams, which is provided u/r 7 (1), the appointments of the petitioners is illegal and deserves to be interfered with.

22. It is the further submission of the learned Addl. Advocate General that prior approval of the Commissioner ought to be obtained u/r 149 (2). However, in the case on hand, no prior approval has been obtained by the Union from the Commissioner, though post appointment, the Commissioner



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has approved the appointment, which itself casts a serious doubt on the entire appointment process.

23. Learned Addl. Advocate General further submitted that the irregularities pointed out in the audit relating to the appointments resulted in enquiry conducted u/s 81, which was on the directions of the 1st respondent, who is vested with power to order for the enquiry.

24. Citing all the aforesaid omissions, infractions and violations, it is the submission of the learned Addl. Advocate General that the entire appointment process is a farce and an eye-wash, which process has not taken place, thereby, the entire recruitment and the consequent appointments are in stark violation of the Act and the Rules and necessarily the said appointments warrants interference, which has been rightly ordered by the 1st respondent leading to the termination of the petitioners, which act does not warrant any interference at the hands of this Court.



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25. In support of his submissions, learned Addl. Advocate

General placed reliance on the following decisions :-

- i) *The Bihar School Examination Board – Vs – Subhas Chandra Sinha &Ors. (1970 (1) SCC 648);*
- ii) *Union of India &Ors. – Vs – O.Chakradhar (2002 (3) SCC 146);*
- iii) *A.Umarani – Vs – Registrar, Co-operative Societies &Ors. (2004 (7) SCC 112);*
- iv) *Karnataka State Road Transport Corporation &Anr. – Vs – S.G.Kotturappa&Anr. (2005 (3) SCC 409);*
- v) *Secretary, State of Karnataka &Ors. – Vs – Umadevi (3) &Ors. (2006 (4) SCC 1); and*
- vi) *R.Rathakrishnan – Vs – Deputy Registrar of Co-operative Societies, Dindigul (2007 (6) MLJ 455)*

26. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing for the respective parties and perused the materials available on record as also the provisions of law, which have a bearing on this case and also the various decisions relied on by the learned counsel on either side.



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27. Normally, a wrongful act committed by a party would invite the wrath of the authority in issuing an order, which would normally be questioned by the individual before this Court. However, the case on hand is a curious one, which falls on both counts within the domain of the respondents. While the respondents themselves had invited lists from the employment exchange and had caused notification of the posts, which were sought to be filled up, which resulted in the names being sponsored by the employment exchange starting from the month of November, 2019, which was acted upon during the end of the year 2020 resulting in the appointments in the year 2021, by alleging following of the procedures contemplated under the Act and the Rules, the said act of the respondents has been questioned by the respondents resulting in the appointments being cancelled by terminating the service of the petitioners, which is put in issue before this Court.

28. The respondents, at the time of recruitment, had claimed that written tests were conducted and based on selection process by a Committee, the candidates, viz., the petitioners were selected and appointed, however, the very act of subordinates of the respondents is questioned by the



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respondents on the ground that the tests, which are alleged to have been conducted have not been conducted by a medium, which has been authorized to conduct the tests and that the OMR sheets and other materials, which were used by the petitioners to answer the questions are not available, which casts serious doubts on the entire selection process.

29. During the hearing of the case, a status report was filed by the respondents in which the action that has been initiated against the erring officers, who were instrumental in the appointment of the petitioners have been detailed. The status report also reveals that 204 candidates have been appointed under the Direct Recruitment rules in different categories from Manager to Senior Factory Assistant in Virudhunagar, Trichy, Tiruppur, Theni, Namakkal, Thanjavuran Madurai District Co-operative Milk Producers Unions during 2020-2021. However, one important aspect which should not be lost sight of is the fact that the 2nd respondent is the appointing authority as per the Special By-laws with whose approval the petitioners have been appointed. However, the status report is silent on the action that has been taken against the 2nd respondent/General Manager.

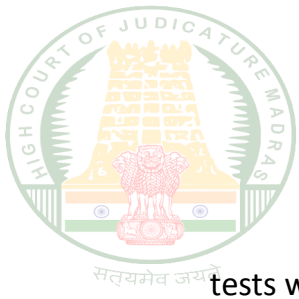


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30. Be that as it may. Coming to the case proper, the Co-operative Milk Producers Unions were formed so that the cattle breeders would be in a position to supply and sell the milk from the cattle on a centralised platform, which would be beneficial to both the producer and the consumer. While the societies under this platform are governed by the Act and Rules, the persons in-charge of manning the societies range from elected office bearers to common cadre staff, who are appointed by following the legal procedures as prescribed under the Act and the Rules. For the purpose of running of the societies, Special By-laws have also been drafted, which provides for a comprehensive mechanism covering all the aspects in the running of the society, including the appointment of common cadre staff.

31. The petitioners in the present case have alleged that the posts to which they have been appointed are common cadre posts and that it is within the sanctioned cadre strength and that the appointments have been in strict compliance of the provisions of the Act and the Rules by calling for names from the employment exchange upon notifying the posts and that written



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tests were conducted and interview was held before the petitioners have been appointed. Therefore, the appointment of the petitioners could not be called to be back door entries, which alone has been deprecated in *Uma Devis's case* by the Apex Court, which is controverted by the respondents contending that not only the provisions have not been followed, but no written test, as alleged has been conducted.

32. Before advertng to the factual matrix, the relevant provisions which govern the appointment of persons to the co-operative societies are quoted hereunder for ready reference :-

Regulation 7 (1) of the Special Bye-Laws :-

7. (1) Recruitment Rule

1 (a) Except as otherwise provided in these Rules or any Rules specially made in this behalf, recruitment to any service or posts shall be made by direct recruitment which may be either by competitive examination or by selection or by promotion, which may be by selection on the basis of Merit-cum-Seniority. The methods of recruitment shall be as specified in the rules of the recruitment specially made in this behalf.

No appointment by direct recruitment to any post shall



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be made except by calling for a list of eligible candidates from the Employment Exchange and by also giving due publicity by means of announcement in the Notice Board of the society and also of the affiliated societies, inviting application from the eligible employees of such societies. Where the Employment Exchange issues a non-availability certificate, the Union shall invite applications by giving advertisement in more than one daily newspaper in which one should be in regional language having wide circulation throughout the area of operation.

Provided that the above stipulation shall not apply to the appointment made on compassionate grounds.

1 (b) Procedure for Appointment

Subject to the provisions of these rules or by any other rules, appointment to any service or posts shall be made :

- *In the case of Direct Recruitment*
- *If it is by a competitive examination after giving adequate publicity (either by notifying the vacancy to the Employment Exchange or published in the newspaper) as the appointing authority may determine in the order of merit from the list of candidates prepared by the Selection Committee appointed for that purpose by the Board.*
- *If it is by selection, after giving such adequate publicity to the recruitment as the appointing*



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authority may determine, in the order of merit of candidates as determined by the Selection Committee or appointing authority as the case may be.

- *Selections for the posts shall be done in accordance with the Service Rules/any other rules of the DCMPU in force from time to time.*
- *Promotion to the posts as mentioned in these Rules shall be governed in accordance with the provisions of the Service Rules of DCMPU or any other rules in force from time to time.*
- *The Division Heads of the Union shall not have any powers to appoint any person whether on contract, temporary, casual, daily wage or on consolidated salary basis without the prior permission of the General Manager."*

******* GM appointing authority**

Rule 149 of the Rules :-

149. Conditions of service of paid officers and servants of Societies :-

(1) Every society shall, taking into account its nature of business, volume of transaction and financial position, adopt, (with the prior approval of the Registrar), a Special by-law covering the service conditions of its employees.



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The special by-law, inter alia, prescribe the following :-

i) Cadre strength and classifications of various categories of posts and the qualifications required thereof for each such posts.

ii) The method of recruitment for each such posts.

iii) The scale of pay and allowances for each such posts.

iv) Conditions of probation for each such posts.

** * * * **

(2) No appointment by direct recruitment to any post shall be made except by calling for a list of eligible candidates from the Employment Exchange and also giving due publicity by means of announcement in the notice board of the society and also of the affiliated societies, inviting application from the eligible employees of such societies. Where the Employment Exchange issues a non-availability certificate, the society shall invite applications by giving advertisement in more than one daily newspapers in which one should be in regional language having wide circulation throughout the State :

Provided that the above stipulation shall not apply –

- To the appointment made on compassionate grounds;*
- For the absorption of surplus employees of other Co-operative Societies;*
- To the posts for which a Recruitment Bureau has been constituted under section 74 of the*



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Act or in respect of which a common cadre of service has been constituted under section 75 of the Act.

* * * * *

33. The By-Law is the off-shoot of the Rules and whatever procedure is provided for in the Rules, finds place in the By-law as well. So necessarily, whatever is provided for in the Rules is to be adhered to in letter and spirit. In such a backdrop, a careful perusal of Regulation 7 (1) of the Special By-law, which is based on Rule 149, it provides two modes of selection, viz., one through competitive examination or by selection by promotion, which may be on the basis of merit-cum-seniority.

34. Regulation 7 (1) further provides that insofar as direct recruitment to be made to any post is concerned, it is mandatory to call for list of eligible candidates from the employment exchange and also giving due publicity by means of announcement in the notice board of the society and also the affiliated societies, inviting application. The procedure for appointment is provided for under Regulation 7 (1) (b) of the Special By-law, which prescribes



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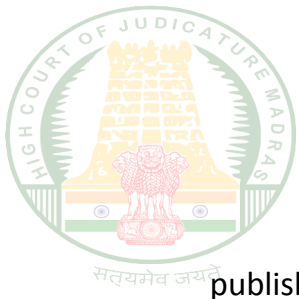
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that for direct recruitment, a competitive examination is to be conducted after giving adequate publicity either by notifying the vacancy to the employment exchange or published in the newspaper. The Regulation further prescribes that merit list to be drawn by a Selection Committee appointed for that purpose.

35. From the above provision, it is amply evident that while direct recruitment is prescribed as the procedure for appointment, it should be by notifying the vacancies with the employment exchange or it should be published in the newspapers. Therefore, without following the aforesaid procedures, no appointments could be made to any common cadre posts.

36. In the light of the aforesaid teething provisions, this Court is ordained with the task to find out the compliance of the aforesaid provisions, as only compliance of the said provisions would save the appointment of the petitioners.

37. It is the admitted case of the petitioners that notification was

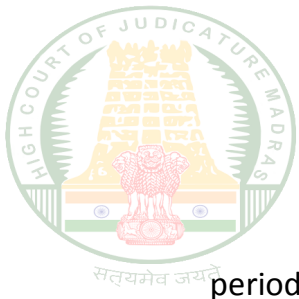


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published in the employment exchange calling for list of candidates for recruitment to various posts in the respondent-cooperative societies. The respondents also accepts the fact that notification has been published in the employment exchange and applications were called for upon which, while list was provided by the employment exchange, pursuant to the advertisement, applications were also received, which culminated in the written test and interview. However, the major grievance of the respondents is that the whole recruitment process is clouded with infirmities, violations and procedural irregularities and that no approval of the 1st respondent was obtained prior to recruitment and, therefore, the appointment of the petitioners are wholly unsustainable, which fact stood proved in the enquiry conducted u/s 81 of the Act.

38. There is no quarrel from either side that employment notification was issued on various dates between June, 2019 and Nov., 2020 in respect of the respective societies and written test and interview were conducted during January/February, 2021 culminating in the appointment of the petitioners on 24.02.2021. Therefore, effectively between June, 2019 and Nov., 2020, a



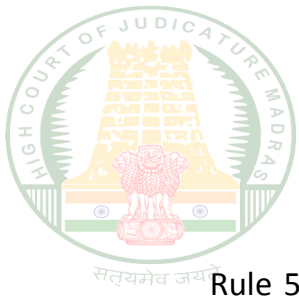
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period of almost one and half years, the recruitment process was brewing without seeing the light of the day and only during January, 2021, the process seems to have gathered pace. The list that was solicited from the employment exchange in the year 2019, was sought to be utilised during the end of November, 2020, almost after one year. In such a situation, what is the validity period of a list that is given by the employment exchange assumes significance.

39. The mandate as provided for u/s 4 of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, in and by which a prescription is made that the employer in every establishment in public sector in that State or area shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed. However, insofar as “unskilled office work” as defined under Section 2 (i), those categories of persons stand excluded from the purview of this Act by virtue of Section 3.

40. The time limit for notification of vacancies is provided for under



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Rule 5 of the Employment Exchanges (Compulsory Notification of Vacancies)

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Rules, 1960, which is quoted hereunder :-

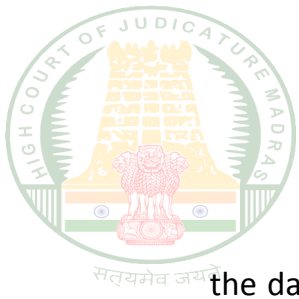
“5. Time limit for the notification of vacancies.-

(1) Vacancies required to be notified to the local Employment Exchange, shall be notified at least (fifteen days) before the date on which applicants will be interviewed or tested where interviews or tests are held, or the date on which vacancies are intended to be filled, if no interviews or tests are held.

* * * * *

41. While Section 4 (1) specifically mandates that for filling up of any vacancies that arise in a public sector establishment, recourse should be made to the employment exchange for filling up the said vacancy, however, sub-section (4) to Section 4 casts no obligation on the employer to recruit any person through the employment exchange to fill any vacancy merely because that vacancy has been notified under the above sub-section.

42. Rule 5 above mandates that any notification of vacancies to be filled up should be notified at the employment exchange atleast fifteen days before



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the date on which applicants will be interviewed or tested and in case where no interview or tests are to be held, the date on which vacancies are intended to be filled.

43. In the above factual background, this Court raised a query to the petitioner as to how the vacancies, that were notified in the year 2019 were filled up in the year 2021 and what is the time limit within which the list furnished by the employment exchange ought to be utilised, as the Act and the Rules are silent on this aspect.

44. Though a direct answer to the query was not made available to this Court either by the learned counsel for the petitioners or by the respondents, however, a deeper investigation by this Court brought to light the fact that G.O.Ms. No.177, Employment Services dated 31.7.1985 was issued by the Government, wherein a prescription of six months was provided for the list, which has been furnished by the employment exchange, to be utilised in pursuance of any notification issued for filling up the post and in the absence of usage of the said list within the said period, the said list would stand lapsed.



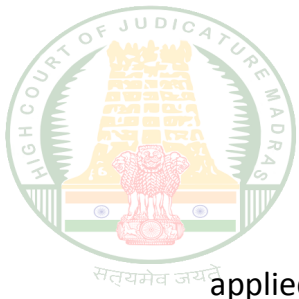
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45. Since the lapsation of the list beyond the period of six months, due to certain unforeseen circumstances was felt, the Government, thereafter, issued G.O. Ms. No.6, Labour & Employment dated 23.1.1996, which provided that the revalidation of the list beyond the period of six months is to be sought for, if the employment process could not be completed within the period of six months.

46. In line with the aforesaid G.O. Ms. No.6, the Government had issued G.O. Ms. No.190, Labour & Employment dated 10.10.2019 which had clearly spelt out the circumstances under which the extension of the list given by the employment exchange could be sought for and granted beyond the period of six months.

47. However, in the case on hand, the list has been furnished by the employment exchange between 2019 and 2021 and there is no clarity with regard to the persons, who have been sponsored by the employment exchange, who were taken up in employment and the persons, who had



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applied based on the advertisement and after coming out successful in the written test and interview were appointed. Further, there is no material to show that any revalidation of the said list was sought for and even if revalidation had been sought for, the same could not have been granted in view of the bar envisaged under G.O. Ms. No.190 dated 10.10.2019.

48. What is more intriguing is the fact that the list, which is alleged to have been obtained from the employment exchange in the year 2019 is said to have been utilised for the purpose of filling up the vacancies in January, 2021, yet the fact remains that the notification with regard to the vacancies, which were proposed to be filled up, was issued only after the month of July, 2020. This Court is at a loss to understand as to how a list, which was obtained prior to the notification could be used for the purpose of filling up the post in the year 2021. Further, the basis on which the list was obtained from the employment exchange without telling the nature of requirement of the candidates, viz., their qualifications, when the posts that were sought to be filled up were not known at the particular point of time, makes this Court more skeptical to accept the entire process of filling up of vacancies and also



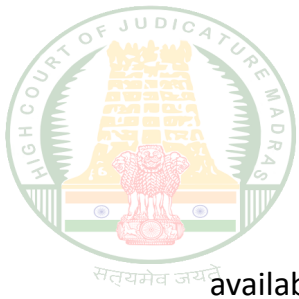
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about the manner in which the vacancies have been filled up.

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49. Not only the aforesaid violation stares writ large on the face of record insofar as appointment of the petitioners are concerned, the further fact that test, which is alleged to have been conducted by the Union in consonance with Section 4(1) also is shrouded with a greater mystery.

50. It is the stand of the respondents that Mahindra College was entrusted with the task of preparing the question paper and conducting the written test, but according to the very same respondents, more appropriately the 2nd respondent, the said college was not an approved college which could conduct the tests. No iota of material has been placed in this behalf by the petitioners to even infer that the said college was approved to conduct the written test by preparing the question paper. Though at the time of conducting the tests, the said college is said to have been approved, however, the very same respondents now dispute the said fact. Further, what is more intriguing is the fact that the OMR sheets, which forms the basis of the written test, which alone could establish the conduct of the written test is not

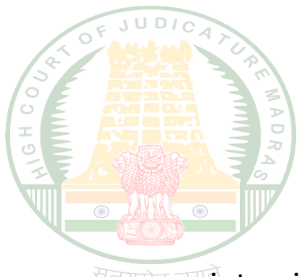


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available. The plea taken by the respondents is that though they had sought for the OMR sheets from the college, however, the college had come out with a reply that due to passage of more than two years between the date of conduct of test and the date on which the OMR sheet is solicited, the OMR sheets have been shredded and are not available.

51. This Court is at a loss to understand as to how the said college could be in possession of the OMR sheets once the written tests are over and the results were published. The said OMR sheets should have been at the hands of the respondents if really such a test was conducted. The selection committee, when interviewing the candidates should have been in possession of the said OMR sheets, which is the property of the respondents. However, for reasons best known to the respondents, who had conducted the alleged written test, the said OMR sheets are not in possession of the respondents and, in fact, the very OMR sheets are alleged to have been shredded. In the absence of the OMR sheets, which alone could establish that the petitioners have gone through the process of written test, the stand of the petitioners that they had partaken in the written test and on coming out successful, were



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interviewed and later appointed falls down like a pack of cards.

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52. Insofar as the issue of violation of principles of natural justice, which has been alleged by the petitioners contending that they have not been given an opportunity of hearing is concerned, it is to be pointed out that enquiry u/s 81 is contemplated and conducted only for the purpose of finding out whether there is mismanagement in the functioning of the society or fraud or corrupt practice has been perpetrated in the society. In the conduct of the said enquiry u/s 81, there is no necessity for the authority, who is directed to conduct the enquiry to provide any opportunity to the parties. However, in the case on hand, it is even the admitted case of the petitioners that in the enquiry u/s 81, the petitioners were called for and enquired and based upon the said enquiry, report was filed, wherein the appointment of the petitioners were held to have been done in gross violation of the provisions of law and without following the procedural aspects.

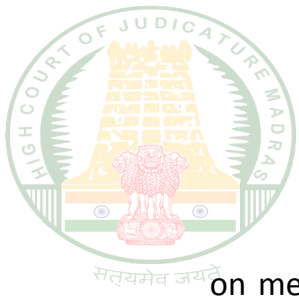
53. The appointment of the petitioners were found to be in violation of the rules, which resulted in the termination of the petitioners. When the



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appointments itself was found to be illegal, there was no necessity for the respondents to issue any notice to the petitioners for hearing them on the question of procedural illegality, as it is not within the domain of the petitioners to defend on the question of procedural illegality. If for any reason, any *mala fides* had been attributed against the petitioners, before terminating them, an opportunity of hearing ought to be given. However, in the case on hand, the appointments made by the respondents themselves having found to be illegal and in gross violation of the Rules, no necessity arose for the respondents to give an opportunity of hearing to the petitioners. Further, the petitioners having been granted with an opportunity of hearing during the enquiry, which was initiated to find out the mismanagement and corrupt practice of the respondents in the appointments, the petitioners cannot seek further opportunity as no fault has been attributed on their part. Further, the appointment of the petitioners being illegal and the petitioners not being approved probationers, they cannot demand an opportunity of hearing, when their appointment itself is illegal. Even if for argument it is accepted that the petitioners ought to be granted an opportunity, yet it would serve no purpose for the simple reason that an illegal appointment could in no way be legalised



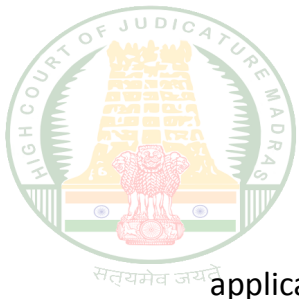
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on mere granting of an opportunity to the person, who has been appointed illegally. Therefore, the non-grant of opportunity to the petitioners would in no way vitiate the order of termination.

54. Insofar as the stand of the petitioners that the enquiry u/s 81 of the Act, which has been resorted to by the respondents cannot be taken up questioning the appointment of the petitioners is concerned, it is to be pointed out that where mismanagement in relation to the society or corrupt practice is the basis for the enquiry, definitely an enquiry u/s 81 can be resorted to. In the case on hand, it is the appointment of the petitioners, which is put in issue, which is nothing but management of affairs of the society and if any mismanagement had taken place in the said appointment process, definitely the 1st respondent is well within its authority to initiate an enquiry u/s 81 and in that backdrop the stand of the petitioners that enquiry u/s 81 cannot survive insofar as appointments are concerned is wholly misconceived.

55. Though the petitioners have relied on the decision in *Benny's case* (*supra*), however, the facts in the said case cannot in any way be made



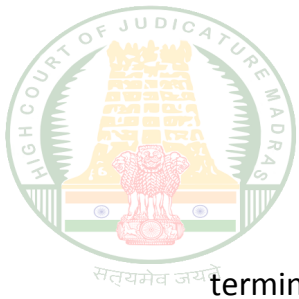
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applicable to the present case. In the said case, there were only sweeping allegation of malpractice and in the absence of any opportunity to the co-operative bank, the appointments, which were held to be bad, were interfered with. However, in the case on hand, the allegations made in the manner of recruitment, for the reasons aforesaid, cannot be said to be sweeping or bald allegations to attract the ratio laid down in the said case. Therefore, the aforesaid decision would not in any way help the case of the petitioners.

56. Equally the decisions relied on by the learned Addl. Advocate General need not be adverted to in the facts of the present case, as the issue before this Court is more factual in nature, which is the result of the act of the respondents themselves and there is no question of law involved, which requires deliberation at the hands of this Court. The illegality in the appointments cannot be cured in any manner and the decisions relied on in this behalf would not in any way further the case of either side.

57. One of the startling features of the present batch of petitions is that though it is the petitioners, who have questioned the impugned order of



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termination, which has emanated on the directions of the 1st respondent, however, the whole gamut of the present case has been the directorial touch of the respondents themselves, whose footprints are scattered all through the phases of the case. The act of the respondents, right from inception to conclusion, resulting in termination, has affected the petitioners, who are aspiring youngsters on the look-out for job. But for the act of the respondents, which smacks of *mala fides*, the petitioners would not have been put to this ignominy and resultant difficulty, both career-wise and monetary-wise.

58. Be that as it may. This case is not a straight-forward one, in which a particular act has resulted in the present situation. The facts surrounding the present case, exposes the larger conspiracy between the various respondents, who have not given even an iota of respect to the Act and the Rules and for certain vested reasons, have put the livelihood of the petitioners in peril.

59. In the above backdrop, certain materials, which finds place in the typed set of records provided by the parties, requires to be looked into to get a holistic picture of what had happened and the infraction of law by the

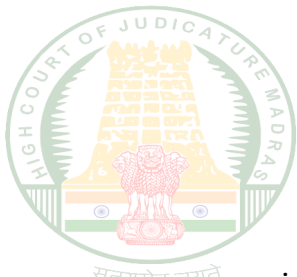


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respondents, which has caused grave prejudice to the petitioners.

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60. Vide communication of the General Manager, Virudhunagar District Co-operative Milk Producers Union dated 5.10.20 and 8.10.20, upon the resolution of the Board of the Virudhunagar District Cooperative Milk Producers Union, revision in cadre strength was addressed to the 1st respondent and after careful scrutiny, the 1st respondent had given a set of guidelines to be followed while accepting and revising the cadre strength and also the manner in which the surplus staff are to be dealt with. The communication of the 1st respondent in this regard is dated 16.12.2020 vide Rc.No.13636/N1/2020. Therein, the 1st respondent has drawn reference to its earlier circular in Rc. No.10101/N2/2007 dated 22.10.2007, wherein for filling up the common cadre posts by recruitment/promotion, permission of the 1st respondent ought to be obtained. The above circular is a common circular, which has been issued across all the cooperative societies and it is to be followed in letter and spirit by the cooperative societies. It is the specific case of the respondents themselves that approval was sought for from the 1st respondent/Commissioner which has been granted in respect of the



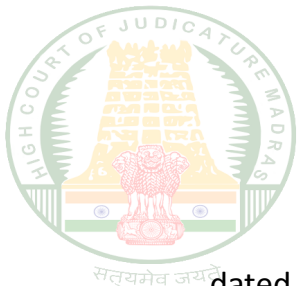
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appointments, which are the subject matter of the present petitions.

61. From the above, it is evident that insofar as any recruitment/promotion with respect to filling up of common cadre posts, permission is to be sought for from the 1st respondent for filling up the said posts. The grant of approval by the 1st respondent is not an empty formality, but it is the duty of the 1st respondent/Commissioner to apply its mind to the materials placed before it to come to a decision with regard to grant of approval. In the case on hand, as noted above, the appointments have been approved by the Commissioner/1st respondent.

62. A perusal of the materials available on record, which has been provided by the respondents reveal that approval of the appointment of the petitioners in the respective common cadre posts in the various co-operative societies spread throughout the State was given by the Commissioner during February, 2021, based on the individual request made by the respective co-operative societies. Following the heels of the said approval, curiously, citing certain complaints in the appointment of the petitioners, vide communication



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dated 1.2.2022, enquiry u/s 81 of the Act was ordered by the 1st respondent/Commissioner pointing out that the enquiry has been initiated based on various complaints, which have been received at its end.

63. The fact remains that the 1st respondent/Commissioner, subsequent to granting the approval for the appointment of the petitioners, had taken up the issue and had ordered an enquiry to be conducted u/s 81 of the Act, which has resulted in the conduct of the enquiry and the resultant termination of the petitioners from service. The only ground that has been taken by the 1st respondent/Commissioner to order the enquiry u/s 81, after granting approval, is on the basis of certain complaints alleged to have been made with regard to the appointments from Vigilance as well as from other quarters. But there is no material to show the nature of the complaint made, which had caused the action u/s 81 of the Act.

64. Though it is not necessary for this Court to look into the manner in which the enquiry u/s 81 has been ordered, however, it should not be lost sight of that the very same authority, who had granted the approval for the



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said appointments had taken up the issue and ordered enquiry u/s 81 of the Act. When the appointment of the petitioners were approved by the 1st respondent, upon careful scrutiny and satisfying itself, the complaint alleged to have been received, though could result in an enquiry u/s 81, but the resultant position would be only to vindicate the appointments, but the enquiry has held that the appointment of the petitioners had not fulfilled the various provisions of law. This Court is at a loss to understand as to how the 1st respondent had granted approval if the provisions of law in the appointment of the petitioners have not been followed. Necessarily the 1st respondent ought to have rejected the approval at the earliest point of time. However, curiously, the 1st respondent had granted approval to the said appointments and within a span of one year, the very same 1st respondent has taken a divergent view, allegedly on some complaint and had initiated the enquiry. This Court is at a loss to understand as to how the procedural violations were not looked into by the 1st respondent at the earliest point of time, when it had granted approval to the appointments, but after allowing the petitioners to continue to work for about a year, the alleged complaints had given a change of heart for the 1st respondent to initiate the enquiry. To put it succinctly, it



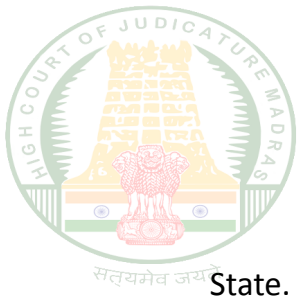
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can safely be concluded that all is not well with the act of the 1st respondent on which much could be said by this Court.

65. As already held above, the appointments have not been made in accordance with Section 4 and Rule 5 as also Rule 149 and as such would render the appointments to be struck down as illegal and, therefore, the plea of the petitioners cannot be considered affirmatively. However, it should not be lost sight of that the authority, which had granted approval of the said appointments had initiated the enquiry u/s 81 of the Act, which is after a period of about a year and ten months and the reason for the 1st respondent to take U-Turn and initiate the enquiry u/s 81 of the Act, though said to be on the basis of certain complaints, needs to be looked into on the basis of certain other materials, which have a bearing on this case, inclusive of the act of the General Manager/appointing authority, who had appointed the petitioners.

66. It is the case of the respondents that the appointment orders were issued and the petitioners were made to join the service just a day or two before the model code of conduct for the elections came into force in the

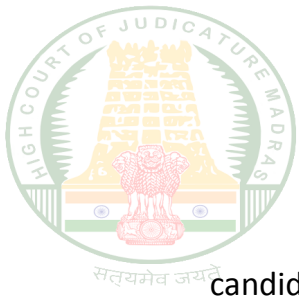


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State. Till the conduct of the elections and the new Government coming into power, no action has been taken against the said appointments. In fact, no complaint was also received as against the said appointments for a period of about a year and the petitioners were allowed to continue in service for more than a year and ten months. However, all of a sudden, out of blue, the enquiry u/s 81 had been initiated and the petitioners were terminated from service citing certain complaints, which are not tabled before this Court. In this backdrop, the question that passes through the mind of this Court is whether the change of guard in the higher echelons had resulted in the revisitation of the appointments. Once the revisitation of the appointments is resorted to by the 1st respondent, necessarily the nexus of the Commissioner and the General Manager, the respective respondents in the various writ petitions in the said appointments, requires a closer investigation.

67. Respondent 1 and 2 cannot blow hot and cold over the same matter. On the one hand, the 1st respondent has granted approval, on the basis of its circular dated 22.10.2007, which is upon arriving at a satisfaction as to the compliance of procedural formalities and the suitability of the



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candidates and on the other hand resort to an enquiry u/s 81 and terminate the very same persons, who were earlier approved to be appointed, viz., the petitioners, by the General Manager/2nd respondent, viz., the appointing authority, holding that the appointments have not been properly made. If the appointments have not been properly made, it is the duty of the respondents 1 and 2, at the earliest point of time, to have negated the approval sought for. The duty of the 1st respondent, as the approving authority, is not a mere rubber stamp, but it is to be based on proper application of mind. To safeguard the interests of persons like the petitioners approval from the 1st respondent has been made a mandatory requirement by its very own circular. However, making a mockery of such a procedure, which has been brought in only to safeguard the interest of the society as well as the persons, who are sought to be recruited, while the 1st respondent had approved the appointments, thereafter, curiously, for reasons best known, had caused the enquiry only for the purpose of terminating the petitioners later. The 1st respondent having approved the appointments, the necessary corollary that could be drawn is that the 1st respondent had satisfied itself with the recruitment process and had approved the appointments. If the 1st



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respondent, thereafter, takes the view to proceed with enquiry u/s 81 of the Act, notwithstanding the fact that the 1st respondent had granted the approval, the inference that could be drawn from the said act could only be relatable to the results of the election, which had initially made the respondents to recruit the petitioners in a hurried manner. This Court is not dumb enough not to decipher the reason for the contrasting stand taken pre-appointment and post-appointment and inspite of a query raised by this Court on the above aspect, however, it drew a big blank with no answer coming from the respondents.

68. An authority cannot grant approval and, thereafter, take a different stand that all is not well with the appointments and initiate action for termination, which jeopardizes the career of the persons who have been appointed. Though the 1st respondent has turned back on the appointments on the basis of certain vigilance and other complaints in the appointment process, as alleged by it, yet the materials, which formed the basis for coming to the said conclusion have not been placed before this Court to absolve the 1st respondent of its act in approving the appointments. In the case on hand, the



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1st respondent having approved the appointments, cannot now turn back and claim that the appointments have not been made in compliance with the procedures and the stand, now taken by the 1st respondent, definitely draws the 1st respondent also into the fold of a larger conspiracy that has been hatched in the whole appointment process. Further, merely because action has been taken against the officers, who were at the helm of the appointments, as could be seen from the status report alone would not suffice to leave aside the other officials, who were also intricately connected with the appointment process and the subsequent appointment of the petitioners. To put it in a nutshell, all is not well with either with the process or appointment as also the appointment and the approval of the appointments.

69. As placed on record by the respondents, the appointments were made at the brink of election being notified and the petitioners have joined service just a day or two before the notification for election. In such a backdrop, this Court need not necessarily be an Einstein to decipher the “*Theory of Relativity*” as the relativity in the present process of appointment is the change in the Government. The 1st respondent is expected to act in

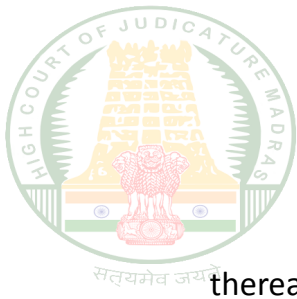


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consonance with law and cannot be a mere puppet at the hands of the elected representatives. The executive, being the third pillar in the constitutional setup, has to rise up to the occasion and cannot dance to the tune of the political bosses even if any pressure on them with regard to either filling up the posts or terminating the persons, who have been appointed in the said posts. The 1st respondent cannot succumb/yield to the pressure wielded over it by anyone to take different stands at differing points of time, which hits at the livelihood of the appointees.

70. It is to be borne in mind that the petitioners have alleged that their appointments were based on written test and interview after properly notifying the vacancies in the employment exchange. However, this Court has already dealt with the manner in which the alleged written test and interview have been conducted, which is not as per the provisions of law and infirmities and violations in the appointments are writ large. However, the said infirmities and violations are acts perpetrated by the respondents of which the petitioners were oblivious. The petitioners have been taken through the ring as cattles to be milked without even knowing the larger conspiracy and,



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thereafter, thrown out. The act of the respondents in the treatment meted out to the petitioners not only robbed the petitioners of their livelihood, but also decimated their seniority in the employment exchange, upon their alleged wrongful appointment with the respondents. For no wrong committed by the petitioners, the petitioners are thrown out on the streets left with no other means to continue their lives and also being disabled from competing on seniority basis from the employment exchange. This Court has to necessarily sympathize with the petitioners as the act of the respondents has resulted in the petitioners being robbed of their livelihood resultantly putting a big question mark on their further prospects.

71. This Court has already held that the appointment of the petitioners are wholly unsustainable, as the mandate u/s 4 and Rule 5 have not been followed and Regulation 7 has been thrown to the winds while making the appointments. Clearly a mockery has been made out of the provisions of law while making the appointments and the petitioners have been made the scapegoat in the appointment process. When a particular provision of law prescribes an act to be done in a particular manner, it is the duty of the



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authorities to do the said act as per the prescription and the authorities cannot deviate from the same. However, in the case on hand, the recruitment process is merely an eye-wash in which the petitioners have been the ultimate losers. Though sympathy can flow from this Court to the petitioners, however, this Court cannot be a tool to justify the wrong committed. The inherent jurisdiction vested in this Court is only to correct the wrong and it cannot be used to give benefit which would otherwise be a seal given by this Court to a wrong act, which has been perpetrated by the respondents.

72. In the present case, the respondents are the culprits and the petitioners are the sufferers. However, the sufferings of the petitioners though has been ventilated, but this Court cannot come in rescue to the petitioners to safeguard their interests in the posts, but only to the limited extent of safeguarding the seniority of the petitioners with the employment exchange, if such of the petitioners selection was on the basis of the list furnished by the employment exchange, which list, as already held by this Court, stood lapsed on the completion of six months period without it being revalidated.



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73. It should also not be lost sight of that the 2nd respondent is the appointing authority, as per By-Law 7.1.4 with regard to all the common cadre posts. It is further to be pointed out that on the basis of the procedure for appointment provided under By-Law 7 (1) (1(b), the appointing authority, on the basis of the list drawn by the Selection Committee, is bound to determine the merit of the candidates and appoint them. However, without even a scant regard and respect to the aforesaid provisions, the 2nd respondent has equally attributed to the issue by appointing the petitioners, which is wholly against the By-laws and what is more disturbing is the fact that the 2nd respondent has now come before this Court and claimed that the recruitment process was not in consonance with the provisions of the Act, Rules and the By-laws.

74. The act perpetrated by respondents 1 and 2, which has put in peril the livelihood of the petitioners and has made the provisions of the Act, Rules and the By-laws as mere piece of paper on which something has been written on, definitely warrants action, which if not taken, would be nothing but giving a stamp of approval to their act. Therefore, necessarily, the Government has to be directed to take departmental action against the Commissioner/1st



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respondent and the General Manager of the respective cooperative societies, who are party respondents in the present batch of writ petitions, which alone would send a message that the judiciary would not be a mute spectator to all the illegal acts perpetrated by the authorities.

75. It is also the duty of this Court to point out that this is not an isolated case where the DCMPU, more famously known as 'Aavin', has committed a solitary act which is in issue before this Court. Time and again, the appointments made to the cooperative societies, more specifically Aavin, had cropped up before this Court only for this Court to find out that the society, unmindful of the by-laws and the other provisions of law, commit irregularities in the appointment, which has been interfered with by this Court. The above scenario more often occurs at the fag end of the period when the elections are to fall due at which time, persons, such as the petitioners are lured by way of appointments in the societies, only to be thrown away at a later stage if the power switches hands. The unbridled powers at the hands of the cooperative societies in the matter of recruitment/appointment paves the way for such illegal acts, which affects the citizens, who are made pawns in the

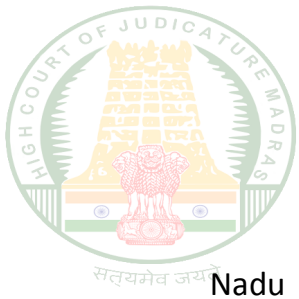


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hands of the executive to satisfy their wants. Allowing such acts to be perpetrated, in turn, results in grave injustice being caused to the persons, who are recruited in this fashion, as they would not be entitled to any relief at the hands of this Court, as this Court cannot exercise its inherent powers in cases where such appointments are illegal appointments, made in contravention of the established legal procedures. Therefore, necessarily a mechanism needs to be formulated, which alone would solve the issue of recurrence of problems of the aforesaid nature.

76. In this regard, a bare perusal of the Act reveals that Section 74 provides for constitution of Recruitment Bureaus at the State and District levels for the purpose of recruitment of such categories of paid officers and servants for employment by such class or classes or category or categories of registered societies. However, there is a bar in respect of the posts, which fall within the common cadre service provided u/s 75. Though the different cooperative societies are separate entities for all purposes insofar as cadre strength is concerned, however, it is to be pointed out that the posts in each cooperative society, if brought within the umbrella of an entity like the Tamil

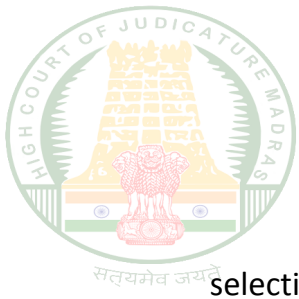


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Nadu Public Service Commission/Teachers Recruitment Board, which alone can fill up the posts upon duly notifying the same and conducting examinations, not only the process would be open to public and would have a wider coverage with regard to applicants applying for the posts, but would also ensure transparency and put an end to the Commissioners acting as puppets at the hands of their political masters, as no longer the appointment to the common cadre posts would be within the domain of the Commissioners, but would fall within the domain of a separate statutory body.

77. It is not to be forgotten that transparency in every aspect is the hallmark of our Indian Constitution and the Right to Information Act has put the citizens on the path to know what is happening within the administration. Unless the administration is set right, the faith that the citizens repose on the rule of law would be greatly affected. Therefore, time has come for the Government to introspect on the formation of a Recruitment Board for the purpose of recruiting persons to the common cadre service in the various co-operative societies, so that not only transparency in the selection process could be monitored, but also the chance of interference by third parties in the



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selection process stands nullified. Therefore, this Court suggests that the Principal Secretary to Government, Animal Husbandry, Fisheries & Dairy Development Department, may take up the matter with the Government for the formation of a Recruitment Board for the purpose of centralised recruitment of personnel in the common cadre service in all the cooperative societies spread across the State.

78. For the reasons aforesaid, while all the writ petitions fail, however, in the interest of justice, this Court issues the following directions :-

- *All the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed;*
- *The petitioners, who were appointed, based on the list given by the employment exchange, shall have their seniority restored in the respective employment exchange in which they had registered themselves as their appointments were based on the said list sponsored by the employment exchange;*
- *The Director, Department of Employment & Training,*



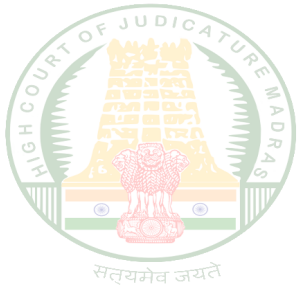
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Chennai, is directed to give suitable directions to the employment exchanges to restore the seniority of the petitioners who were sponsored from the respective employment exchange;

- *The Principal Secretary to Government, Animal Husbandry, Fisheries & Dairy Development Department, Government of Tamil Nadu, is directed to initiate disciplinary action against the Commissioner/1st respondent and the General Manager of the respective cooperative societies, who is one of the respondent in all the writ petitions forthwith;*
- *The Principal Secretary to Government, Animal Husbandry, Fisheries & Dairy Development Department, Government of Tamil Nadu is directed to take steps for the formation of a centralised Recruitment Board for recruiting personnel falling within the common cadre posts for filling up the same across all the Co-operative Societies by carrying out amendments to the Act, Rules and the Special By-laws and the said exercise shall be completed within a period of three months from the*



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date of receipt of a copy of this order;

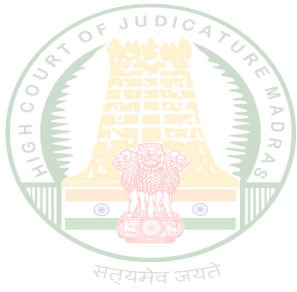
- *Till such time a centralised Recruitment Board is constituted, no person shall be appointed by the respective co-operative society.*

29.03.2023

Index : Yes

Neutral Citation : Yes

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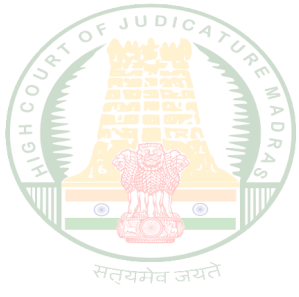


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To

- The Commissioner of Milk Production
& Dairy Development Department
Mathavaram Mill Colony
Chennai 600 051.
- The General Manager
Tiruchirappalli District Cooperative
Milk Producers Union Limited
Pudukottai Road, Kottapattu
Tiruchirappalli 620 023.
- The Deputy Registrar (Dairy)
Tiruchirappalli District Cooperative
Milk Producers Union Limited
Old Collectorate Office Campus
Tiruchirappalli 620 001.
- Principal Secretary to Government
Animal Husbandry, Fisheries & Dairy Development
Department, Government of Tamil Nadu
Fort St. George, Chennai.
- The Director
Department of Employment & Training
Alandur Road, Thiru-vi-ka Industrial Estate,
Guindy, Chennai - 600032.



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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. (MD) NOS.501 OF 2023,
Etc., Batch**

**Pronounced on
29.03.2023**