



W.P.(MD)No.5148 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.5148 of 2023

and

W.M.P.(MD)No.4853 of 2023

1.M.Xavier Manoharan
2.S.Thomas
3.T.P.Cletus
4.P.Mercelin
5.S.M.Selva Raj
6.J.Andhriyas

... Petitioners

vs.

1.The Deputy Director of Fisheries and
Fishermen Welfare Department,
Kanyakumari Region, Nagercoil,
Kanyakumari District.

2.The Assistant Director of Fisheries and
Fishermen Welfare Department,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certioari to call for the records relating to the impugned notice issued by the first respondent herein in his proceedings vide Na.Ka.No.2485/E/2021, dated 20.02.2023 and to quash the same.



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For Petitioners :Mr.Aayiram K.Selvakumar
For Respondents :Mr.J.Ashok
Government Advocate

ORDER

This Writ Petition has been filed in the nature of Certiorari seeking interference of with a notice issued by the first respondent/The Deputy Director of Fisheries and Fishermen Welfare Department, Kanyakumari, in Na.Ka.No.2485/E/2021, dated 20.02.2023.

2.Heard Mr.Aayiram K.Selvakumar, learned Counsel for the petitioners and Mr.J.Ashok, learned Government Advocate for the respondents.

3.There are six Writ Petitioners. In the affidavit filed in support of this Writ Petition, it had been stated that they were elected as President, Vice President and Administrative Committee members of Y-62, Pozhikarai Fishermen Cooperative Society at Pozhikarai. The first Writ Petitioner was the President. It is stated that by the impugned proceedings, all the petitioners had been disqualified permanently from



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holding in future any office in the registered Society and they had been removed under Section 36(1) of Cooperative Societies Act. The main ground, which had been urged, is that such order has been passed without any notice being issued.

4.The learned Additional Government Pleader very fairly stated that except for the first petitioner, who is the President, notice had not been issued in accordance with the rules to the other Writ Petitioners, namely, Writ Petitioners Nos.2-6.

5.In view of that fundamental fact, the impugned order is straightway set aside on the ground of denial of opportunity of being heard granted to the 2-6 Writ Petitioners. Insofar as the first Writ Petitioner is concerned, since a notice had been issued and he had also given reply and an order has been passed, the said order can be challenged by him by way of an appeal before the appropriate authority in accordance with the provisions of Tamil Nadu Cooperative Societies Act, 1983. The learned Additional Government Pleader very specifically pointed out that Section 152 of the said enactment provides for an appeal



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to be filed.

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6. Therefore, the following order is passed in the present Writ Petition:

(a) permission is granted to the first Writ Petitioner, M.Xavier Manoharan, President of the Society to file an appeal under Section 152 of Tamil Nadu Cooperative Societies Act, 1983. If the period of limitation is put against him, if he files an appeal on or before 31.03.2023, then the issue of limitation need not be put against him and the appeal may be taken on record by the Competent Authority.

(b) The impugned order is set aside against the Writ Petitioners 2-6, since notice had not been given. However, the Competent Authority is granted permission to issue fresh notice in accordance with law and proceed against them, if it is required and if situation warrants.

7. No further orders are required.



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No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes / No
Internet :Yes
NCC : Yes/No

15.03.2023

cmr

To

1.The Deputy Director of Fisheries and
Fishermen Welfare Department,
Kanyakumari Region, Nagercoil,
Kanyakumari District.

2.The Assistant Director of Fisheries and
Fishermen Welfare Department,
Nagercoil, Kanyakumar District.



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C.V.KARTHIKEYAN, J.

cmr

Order made in
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