



W.P.(MD).No.15875 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.15875 of 2023

and

W.M.P(MD)Nos.13290 & 13291 of 2023

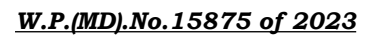
A.V.Anshil

... Petitioner

Vs.

- 1.The Registrar of Co-operative Societies,
No.170, Periyar EVR High Road,
Poonamallee High Road,
Chennai – 600 010.
- 2.The Joint Registrar of Co-operative Societies,
Central Co-operative Bank,
Nagercoil,
Kanyakumari District.
- 3.The Deputy Registrar of Co-operative Societies,
Thuckaly,
Kanyakumari District.
- 4.The President,
Y-178, Eraviputhoorkadai Primary Agriculture
Co-operative Credit Society Limited,
Katuvillai,
Kattathurai Post,
Kanyakumari District.

... Respondents



For Petitioner : Mr.C.K.M.Appaji

For RR 1 to 3 : Mr.N.Muthuvijayan
Special Government Pleader

The present Writ Petition has been filed for issuance of a Writ of Certiorari Mandamus, to quash the order of the fourth respondent dated 02.08.2022, insofar as the order rejecting the petitioner's application for the appointment on compassionate ground is concerned and consequently direct the respondents to appoint the petitioner on compassionate ground in the available vacancies of other Co-operative Societies.



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2.Heard Mr.C.K.M.Appaji, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

3.The petitioner's father H.Aruldas worked as an Assistant in the fourth respondent Society. He was a permanent staff and on 16.09.2016, while he was in service, he passed away. The petitioner has completed his 10th standard. On 05.08.2017, within a period of one year from the date of death of his father, the petitioner preferred an application before the fourth respondent seeking for appointment on compassionate grounds in the prescribed format. The said H.Aruldas was survived by his wife and the petitioner. The mother of the petitioner has also been given a No Objection Certificate. Since the petitioner's application was not considered, he made a reminder on 28.10.2021 to the respondents. Even after that, since there was no action, the petitioner filed a Writ Petition in W.P(MD)No.13668 of 2022 before this Court and this Court, by order dated 30.06.2022, directed the fourth respondent to consider the petitioner's representation, dated 05.08.2017 and pass orders within a period of three months. On the basis of which, the petitioner's representation was considered and



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the impugned order, dated 02.08.2022 came to be passed by the fourth respondent and the petitioner's application was rejected on the ground that the fourth respondent Society is running on loss and the permitted number of employees for the said Society is only three and presently, three persons are employed therein and hence, due to lack of vacancy, the petitioner's claim could not be appreciated and hence, the same was rejected.

4.However, on perusal of the records would reveal that on 20.02.2020, the third respondent sent a communication to the petitioner ensuring that the petitioner would be granted with compassionate appointment after ascertaining the available vacancies in other Societies and thereby relaxing the necessary by-laws in the aforesaid Society and facilitate the petitioner with an appointment order. Superseding this communication, this impugned order, dated 02.08.2022 has been passed by the President of the fourth respondent Society.

5.The President of the fourth respondent Society cannot pass an order superseding the instructions of the third respondent and on that basis, this Court is inclined to quash the impugned order.



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6. Accordingly, the impugned order, dated 02.08.2022 passed by the fourth respondent is quashed and directing the third respondent to ascertain the available vacancy in other Societies and duly make amendments in the by-laws of the said Society and provide the petitioner with an appointment order. The petitioner is also directed to give a fresh representation enclosing all the necessary documents to the respondents 2 and 3 and the respondents 2 and 3 are directed to consider the representation of the petitioner favourably and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above observation, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

03.08.2023

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



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L.VICTORIA GOWRI, J.

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