



W.P.(MD).No.16242 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16242 of 2023

and

W.M.P(MD)Nos.13613 & 13614 of 2023

V.Pauldurai

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies/
Common Cadre Authority,
O/o.The Joint Registrar of Co-operative Societies,
Thoothukudi.

2.The Deputy Registrar of Co-operative Societies,
O/o.The Deputy Registrar of Co-operative Societies,
Kovilpatti Circle,
Thoothukudi District.

3.The Administrator,
TN.Spl.215, Venkatachalapuram Primary
Agricultural Co-operative Credit Society,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed in Na.Ka.No.5145/2022 dated 29.07.2022 by the first respondent and quash the same and consequently directing the respondents to reinstate the petitioner



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in service in the TN.Spl.215, Venkatachalapuram Primary Agricultural Co-operative Credit Society, the third respondent.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent dated 29.07.2022 and consequently directing the respondents to reinstate the petitioner in service in the TN.Spl. 215, Venkatachalapuram Primary Agricultural Co-operative Credit Society/the third respondent.

2.Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents and perused the materials available on record.



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3.The petitioner was appointed as a Secretary in Venkatachalapuram Primary Agricultural Co-operative Credit Society on 23.02.1994 and he continued in service of the said Society as Secretary till 29.07.2022 ie., the date of the impugned order by which the petitioner was put to suspension. The said suspension order came to be passed by the first respondent, the Joint Registrar of Co-operative Societies, who is also the chairman of the common cadre authority.

4.Rule 2(f) of the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019, defines Common Cadre Authority, which reads as follows:-

"2(f) "Common Cadre Authority" means the Committee constituted under Rule 3 of these rules."

5.Common Cadre Authority being the committee constituted under Rule 3 of the of the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019, the constitution of the Common Cadre Authority as contemplated by Rule 3 is extracted as follows:-



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"Explanation II.- (4) For the first three years from the date of constitution of the common cadre of service, the Joint Registrar of Co-operative Societies of the region concerned shall be the competent authority under the first proviso to sub-Section (3) of Section 75 of the Act.

From the fourth year onwards the committee consisting of the following officers shall be the competent authority (hereinafter called "common cadre authority") in respect of the Primary Agricultural Co-operative Credit Societies:-

- | | |
|--|-----------------------------|
| <i>(i) The Regional Joint Registrar
of Co-operative Societies of
the respective region.</i> | <i>: Chairman</i> |
| <i>(ii) The Managing Director of
the respective Central
Co-operative Bank.</i> | <i>: Member - Secretary</i> |
| <i>(iii) The Circle Deputy Registrar
of Co-operative Societies at
the District headquarters.</i> | <i>: Member</i> |



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(iv) *The President of the Primary : Member*
Agricultural Co-operative
Credit Society in the district
with the highest working
capital to be nominated by
the respective Central
Co-operative Bank.

6.In terms of Rule 2(f) and 3(4) as contemplated by the aforesaid common cadre Service Rules, 2019, on 03.02.2022, the common cadre committee was constituted and the same was circulated to all the Regional Joint Registrars of the Co-operative Department and also all the Central Co-operative Bank in the State of Tamil Nadu.

7.It is pertinent to mention that after the constitution of such a common cadre committee under the Chairmanship of the respective Regional Joint Registrar for every region, this impugned order of suspension suspending the petitioner came to be passed on 29.07.2022 by the first respondent in the capacity of the common cadre committee chairman without consultation with the entire common cadre committee. Such an exercise has been done beyond



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the mandates as contemplated under the aforesaid provisions of the common cadre service Rules, 2019.

8.A similar case was dealt with by this Court in ***W.P(MD)No.12809 of 2022, dated 14.09.2022 [D.Anantharaj Navamani Robin Vs. The Joint Registrar of Co-operative Societies]***, in which, the learned Single Judge of this Court has passed the following order:-

"2. There is no dispute that the writ petitioner is employed as Secretary of the Government Cooperative Society. There is no dispute that the writ petitioner belongs to the common cadre as contemplated under Section 75 of the Tamil Nadu Co-operative Societies Act, 1983. By the impugned order, he has been suspended from service for a period of three months. It is seen that the impugned order was passed by the Joint Registrar of the Cooperative Societies in her capacity as Chairman of the Common Cadre Service Authority for the Tuticorin Region. Section 75(3) of the said Act states that the common cadre authority shall be a committee consisting of both officers of the Government and non-officials and the total strength of such



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committee shall not exceed five. It is only such a committee which can take decision regarding suspension of a common cadre employee. In this case, the committee had not taken the decision as such.

3.The Joint Registrar of the Co-operative Societies appears to have taken a decision on her own, of-course, in her capacity as the chairman of the common cadre authority. When the statute contemplates that the committee after deliberation must take a decision, it is not open to the chairman to take an individual or unilateral decision. The impugned order suffers from lack of jurisdiction. On this sole ground, it stands quashed. I make it clear that I have not gone into any other aspect of the matter including merits. "

9.I am fully in agreement with the order passed by this Court in the aforesaid Writ Petition. The Joint Registrar of the Co-operative Society has taken her own view in the capacity of the chairman of the Common Cadre Authority without consultation with the committee members. As observed in the said order, when the statute contemplates that the committee after deliberation must take a decision, it is not open to the chairman to take an individual or unilateral decision. Hence, the impugned order lacks jurisdiction. On



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this sole ground, this Court is inclined to quash the suspension order without going into the details of the other aspects which has been canvassed in the impugned suspension order.

10.However, the learned Special Government Pleader appearing for the respondents brought to the notice of this Court about the enquiry report which has been already submitted by the enquiry officer under Section 81 of the Act, who was appointed on 17.08.2022. In the said report, various misappropriation which is alleged to have been committed by the Board of Directors of the Society and the petitioner have been brought to the notice of the appropriate authorities and a counter is also filed with respect to the fact that the enquiry officer has recommended to initiate sur-charge proceedings against the petitioner and the board of Directors of the Society.

11.Hence, this Court makes it clear that the impugned order, dated 29.07.2022, is quashed leaving open the aspect of the surcharge proceedings with respect to the petitioner and the board of Directors.



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12.In view of the quashment of the impugned order passed by the first respondent, dated 29.07.2022, this Court directs the respondents to reinstate the petitioner in service in TN.Spl.215, Venkatachalapuram Primary Agricultural Co-operative Credit Society, within a period of eight weeks from the date of receipt of a copy of this order. All the other aspects with respect to the allegations stated in the counter are left open for appropriate action by the competent authority.

13.With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19.07.2023

NCC : Yes
Index : Yes
Internet : Yes
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To

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L.VICTORIA GOWRI, J.

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