



W.P.(MD).No.17189 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.09.2023

PRONOUNCED ON : 18.10.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.17189 of 2023

and

W.M.P(MD)Nos.14385 & 16716 of 2023

K.P.Ramakrishnan

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Ramanathapuram Region,
Ramanathapuram.

2.The District Registrar of Co-operative Societies,
Paramakudi,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the first respondent in Na.Ka.No.5357/2020/C1 dated 28.06.2023 and quash the same and consequently direct the respondents to allow the petitioner to continue as Secretary at Sayalkudi Primary Agriculture Co-operative Credit Society.



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For Petitioner : Mr.C.Jeganathan
For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order issued by the first respondent, dated 28.06.2023 and consequently direct the respondents to allow the petitioner to continue as Secretary at Sayalkudi Primary Agriculture Co-operative Credit Society.

2.Heard Mr.C.Jeganathan, 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.

3.The petitioner was appointed as a Secretary at Naripaiyoor Primary Agriculture Co-operative Credit Society by the second respondent through employment exchange on 10.09.1993. Subsequently, he was transferred from Naripaiyoor Primary Agriculture



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Co-operative Credit Society to Veppankulam Primary Agriculture Co-operative Credit Society on 15.09.2019. While so, he gave a representation to the first respondent seeking to transfer him from Veppankulam Primary Agriculture Co-operative Credit Society to Sayalkudi Primary Agriculture Co-operative Credit Society due to his ill health. Considering his health condition, his request was considered by the first respondent and on 09.06.2023 he was transferred from Veppankulam Primary Agriculture Co-operative Credit Society to Sayalkudi Primary Agriculture Co-operative Credit Society. The petitioner took charge at Sayalkudi on 09.06.2023 and to that effect, the board of the said Society also passed a resolution. While so, within 20 days of his transfer to Sayalkudi Society, the impugned order of transfer dated 28.06.2023 came to be passed by the first respondent transferring the petitioner from Sayalkudi Primary Agriculture Co-operative Credit Society to T.M.Kottai Primary Agriculture Co-operative Credit Society. Challenging the same, this Writ Petition came to be filed.

4.The respondents have filed a common counter-affidavit and the learned Special Government Pleader appearing for the respondents submitted that as per the order of the common cadre



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Authority dated 31.05.2023, the writ petitioner was transferred from K.Veppankulam Primary Agriculture Co-operative Credit Society to Sayalkudi Primary Agriculture Co-operative Credit Society and the petitioner joined duty at Sayalkudi Primary Agriculture Co-operative Credit Society on 09.06.2023. In the mean time, it was brought to the knowledge of the common cadre Authority that Sayalkudi is the native place of the writ petitioner. As per the instructions given by the Registrar of Cooperative Societies vide proceedings dated 22.02.2022, no common cadre employee shall be posted to a Society which is situated in his native village. Since S.Keeranthai is the native village of the writ petitioner and the same belonged to the area of operation of Sayalkudi Primary Agriculture Co-operative Credit Society, he should not continue in Sayalkudi Primary Agriculture Co-operative Credit Society as common cadre employee. So the matter was discussed in the meeting of the common cadre Authority and it was decided to transfer him to the nearest Society considering his health condition. Hence, he was transferred to T.M.Kottai Primary Agriculture Co-operative Credit Society as per the proceedings of the Chairman of the common cadre Authority dated 28.06.2023. T.M.Kottai Primary Agriculture Co-operative Credit Society is situated just 10 km away from Sayalkudi.



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5. Based on the said proceedings of the Regional Joint Registrar of Co-operative Societies/Chairman of common cadre Authority, the management of the Sayalkudi Primary Agriculture Co-operative Credit Society laws made alternative arrangements to the petitioner as Secretary vide its resolution dated 15.07.2023 and the impugned transferred order came to be passed only as an alternative arrangement.

6. However, disobeying the orders of the common cadre Authority and the management of Sayalkudi Primary Agriculture Co-operative Credit Society, the petitioner did not hand over the charges as Secretary. That apart, the performance of the petitioner as Secretary in Naripaiyoor Primary Agriculture Co-operative Credit Society was also not satisfactory. He joined as Secretary in Naripaiyoor Primary Agriculture Co-operative Credit Society on 10.09.1993 and continued as Secretary until 14.09.2019. The performance of the petitioner was far below the expectations of the higher authorities. That apart, he was punished in the disciplinary proceedings referred by Director of Vigilance and Anti-corruption for the irregularities committed by the petitioner in the disbursement of insurance amount



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in Pillaiyarkulam Primary Agriculture Co-operative Credit Society vide proceedings of the common cadre Authority, dated 31.05.2023.

7.As per the model transfer policy under Rule 18 of the Primary Agricultural Co-operative Credit Societies common cadre Rules 2019, as prescribed by the Registrar of Co-operative Societies, vide letter dated 22.02.2022, which is putforth that the common cadre employee under common cadre shall be transferred once in three years. However, in the case of complaints and on appropriate administrative grounds, a common cadre employee can be transferred even before the expiry of the above period. Hence, there is no ill intention or ill motive in the transfer of the writ petitioner from Sayalkudi Primary Agriculture Co-operative Credit Society since Sayalkudi Primary Agriculture Co-operative Credit Society covers the native Village S.Keeranthai of the writ petitioner, the continuation of the petitioner as Secretary in Sayalkudi Primary Agriculture Co-operative Credit Society is against the common cadre regulations and hence, he was transferred only to a nearest Primary Agriculture Co-operative Credit Society ie., T.M.Kottai Primary Agriculture Co-operative Credit Society and the same was made purely on administrative grounds, to comply with the instructions of the Registrar

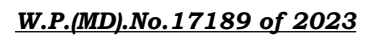


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of Co-operative Societies vide proceedings dated 22.02.2022 and the Common Cadre Rules, 2019 and on that basis, he pressed for dismissal of the Writ Petition.

8.Per contra, the learned counsel appearing for the petitioner vehemently contended that Sayalkudi is not the native place of the petitioner, but S.Keeranthai is his native place and the said Village S.Keeranthai will not come under the administrative jurisdiction of Sayalkudi Primary Agriculture Co-operative Credit Society.

9.Though the transferred order has been issued in the style of a transfer effected for administrative reasons, the pleadings of the respondents in the counter-affidavit and the submissions of the learned Special Government Pleader would reveal that the petitioner has been transferred from Sayalkudi Primary Agriculture Co-operative Credit Society to T.M.Kottai Primary Agriculture Co-operative Credit Society only on the basis of certain complaints and allegations which has been brought to the notice of the common cadre Authority as against the petitioner. Once a complaint has been lodged as against an employee and when the competent authority comes to the conclusion that the complaint has to be taken into consideration, the consequence would



10. However in the instant case, several sets of allegations have been pointed out by the respondents as against the petitioner in a vague and unclear manner. Though an order of the transfer is an administrative order and the same is an incident of service which should not normally be interfered with in cases where *inter alia* malafides on the part of the authority is proved, then the same could be interfered with. The impugned order of transfer in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and the same is fully based on irrelevant grounds.

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near to the existing Sayalkudi Primary Agriculture Co-operative Credit Society from where the petitioner was transferred since the same came to be passed on punitive grounds, this Court finds it necessary to interfere with the same.

12.In view of the same, I am inclined to quash the impugned transfer order, dated 28.06.2023 passed by the first respondent and the same is quashed and consequently the respondents are directed to allow the petitioner to continue the service as Secretary at Sayalkudi Primary Agriculture Co-operative Credit Society. It is pertinent to mention here that the petitioner's native S.Keeranthai will not come under the administrative jurisdiction of Sayalkudi Primary Agriculture Co-operative Credit Society.

13.Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

18.10.2023

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

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- 2.The District Registrar of Co-operative Societies,
Paramakudi,
Ramanathapuram District.



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L.VICTORIA GOWRI, J.

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