



WEB COPY



W.P.No.24133 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM

**THE HONOURABLE Mr. JUSTICE MUMMINENI SUDHEER KUMAR**

W.P No.24133 of 2011

and

MP.No.1 of 2011

G.Sivabalakrishnan

...

Petitioner

**Vs.**

1.The Special Officer,  
Periyanayakencpalayam Cooperative  
Housing Building Society Ltd.,  
No.3/388, Mettupalayam Road,  
Kurunthachala Road,  
K.Vadamadurai P.O. Coimbatore-17.

2.The Deputy Registrar of Cooperative,  
Society (Housing), Chintamani Compound,  
Coimbatore-North.

...

Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 04.08.2011 passed by the 1st respondent on the instruction of the appellate authority, the 2nd respondent, and quash the same and to direct the respondents to reinstate the petitioner in service as Secretary to Perianayackencpalayam Cooperative House building Society Ltd., No.K.1709



W.P.No.24133 of 2011

Kurunthachala Nagar, K.Vadamadurai P.O., Coimbatore-17, and to grant interim stay in the operation of the order of the 1st respondent dated 04.08.2011, pending disposal of this writ petition.

For Petitioner : Ms.K.Jenitha

For Respondents : Mr.L.P.Shanmugasundaram for R1  
: Mr.M.Rajendran, AGP for R2

### **ORDER**

This Writ Petition has been filed challenging the impugned order dated 04.08.2011 passed by the 1st respondent dismissing the petitioner from service on the ground that the petitioner was convicted in C.C.No.34/2006 on the file of the Judicial Magistrate No.IV, Coimbatore.

**2. The brief facts relevant to the disposal of the Writ Petition are as hereunder:**

While the petitioner was working as Secretary of the 1st respondent's society, he was involved in a criminal case in C.C.No.34/2006 on the file of the learned Judicial Magistrate No.IV, Coimbatore, and after conducting a detailed trial in the said C.C.NO.34/2006, the petitioner was convicted by a judgement dated 26.07.2011. In the light of the said conviction of the petitioner by order dated 26.07.2011, the 1st respondent herein passed an impugned order dated



04.08.2011, dismissing the petitioner from service. It is aggrieved by the said order, the petitioner approached this Court by filing this Writ Petition.

3. Aggrieved by the judgement in C.C.No.34/2006, the petitioner has filed a criminal appeal in CrI.A.No.173/2011 on the file of the Court of the I Additional District and Sessions Judge, Coimbatore. However, the said appeal was dismissed by the learned District and Sessions Judge, Coimbatore, by an order dated 26.07.2011. Aggrieved by the same, the petitioner filed Criminal Revision Petition in CrI.R.C.No.1146 of 2014 before this Court, and the said Criminal Revision case was allowed by an order dated 14.02.2024 setting aside the conviction imposed on the petitioner. There is no dispute about the same, and a copy of the order dated 14.02.2024 is also placed before this Court. As of now, there is no appeal filed against the said order dated 14.02.2024 passed in CrI.RC.No.1146/2024.

4. It is not a case where the petitioner was subjected to any independent disciplinary proceedings, but it is only on the ground of conviction imposed on the petitioner, he was dismissed from service by passing the impugned order dated 04.08.2011. As the conviction which is the basis for passing the impugned order is no longer subsist and seized to exist with effect from 14.02.2024, the impugned



order cannot be survive any more. Hence, the same is liable to be set aside.

WEB COP 5

5. The contention of the learned counsel for the respondent is that the petitioner has committed misappropriation of funds and caused loss to the 1st respondent's society, and surcharge proceedings are pending before the concerned Cooperative Tribunal, and therefore, the impugned order cannot be set aside etc., does not deserve consideration for the simple reason that the surcharge proceedings initiated against the petitioner are independent of the disciplinary proceedings, and admittedly as on date there are no disciplinary proceedings initiated against the petitioner by the 1st respondent's Cooperative society.

6. In light of the above contention, this Court does not see any reason to sustain the impugned order dated 04.08.2011 once the conviction imposed on the petitioner was set aside by this Court, by order dated 14.02.2024.

7. The impugned order dated 04.08.2011 passed by the 1st respondent is set aside, accordingly, this Writ Petition is **allowed**. The 1st respondent is directed to reinstate the petitioner into service within a period of four weeks from the date of receipt of a copy of this order. On such reinstatement, the petitioner



W.P.No.24133 of 2011

shall be entitled to get continuity of service for all purposes, except back wages, for the period he is out of employment. There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

**22.08.2024**

Internet : Yes/No  
Speaking/Non- Speaking  
Neutral: Yes/No  
jrs

To

1. The Special Officer,  
Periyanayakencpalayam Cooperative  
Housing Building Society Ltd.,  
No.3/388, Mettupalayam Road,  
Kurunthachala Road,  
K.Vadamadurai P.O. Coimbatore-17.
- 2.The Deputy Registrar of Cooperative,  
Society (Housing), Chintamani Compound,  
Coimbatore-North.



WEB COPY



W.P.No.24133 of 2011

**MUMMINENI SUDHEER KUMAR.J.,**

jrs

W.P No.24133 of 2011  
and  
MP.No.1 of 2011

22.08.2024