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W.P.No.8025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8025 of 2024
and WMP.Nos.8992 & 8993 of 2024

J.Punitha

... Petitioner

Vs.

- 1.The Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Finance Department (Co-operative Audit),
Fort St.George, Secretariat, Chennai 600 009
- 2.The Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Secretariat, Chennai 600 009
- 3.The Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Co-operation, Food and Consumer Protection (CE2) Department,
Fort St.George, Secretariat,
Chennai 600 009
- 4.The Director of Co-operative Audit,
No.571, Anna Salai, 2nd Floor,
Perasiriyar K.Anbalagan Maligai,
Veterinary Hospital Campus,
Nandanam, Chennai 600 035
- 5.The Registrar of Co-operative Societies(Housing),
No.48, Ritherton Road,
Vepery, Chennai 600 007
- 6.Joint Registrar of Cooperative Societies,
Room No.410, Collectorate,
Salem

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus after calling for the records of the third respondent in GO.(Nilai)No.37, Co-operation, Food and Consumer Protection(CE2) Department dated 26.02.2024 and proceedings in Rc.No.1962/2024 DA, dated 05.03.2024 of the sixth respondent and quash the same and issue consequential directions to the respondents to allow the petitioner to continue as Cooperative Sub Registrar with all benefits.

For Petitioner : Mr.V.P.Sengottuvel,
Senior Counsel
for M/s.K.Indhu Priya

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mrs.M.Geetha Tamaraiselvan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the third respondent in GO.(Nilai)No.37, Co-operation, Food and Consumer Protection(CE2) Department dated 26.02.2024 and the proceedings of the sixth respondent in Rc.No.1962/2024 DA, dated 05.03.2024, thereby suspended the petitioner from service.

2. The petitioner was originally appointed and taken into



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service by the third respondent. Thereafter, on deputation, the petitioner was appointed as Supervising Cooperative Sub Registrar(Housing) on 02.04.2020 in the second respondent Department. Thereafter, she was appointed as Cooperative Sub Registrar (Housing) / Personnel Officer on 11.07.2022. She was also holding additional charge to the post of Deputy Registrar (Housing), Salem as incharge from 12.08.2022 to 06.12.2022. Subsequently, she was transferred to the third respondent Department and was holding the post of Cooperative Sub Registrar / Personnel Officer, Omalur Circle on 16.06.2023. While being so, she was suspended from service for the alleged lapses noticed on her part while holding additional charge to the post of Deputy Registrar(Housing), Salem as incharge from 12.08.2022 to 06.12.2022.

3. The learned Senior Counsel appearing for the petitioner submitted that the petitioner was holding the additional charge to the post of Deputy Registrar(Housing), Salem only for a period of 4 months. The alleged lapses were related to the period while the petitioner was rendering service in the second respondent department on deputation. Neither the second respondent nor the fifth respondent has conducted any



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enquiry into allegations of lapses. The third respondent had directed the Director of Vigilance and Anti Corruption to conduct enquiry based on a Special Report submitted by the fourth respondent. The fourth respondent conducted Special Audit on the directions issued by the first respondent on receipt of the complaint lodged by a third party with regards to the irregularities committed by the fifth respondent while granting approval for development of layout by Cooperative Housing Society on a public private partnership model or joint venture model. The Elavamalai Cooperative Building Society Limited (No.AA 377) submitted a proposal for approval for promotion of a layout through the then Deputy Registrar of Cooperative Societies(Housing) by the proceedings dated 14.06.2022. The said proposal while pending for approval on the file of the fifth respondent, the society concerned and the promoter requested for increase in the development charges price. The said request was forwarded to the Cooperative Sub Registrar(Housing), Salem and requested to revise the development charges for the layout proposal. Accordingly, upon the said request, the Cooperative Sub Registrar(Housing), Salem by its communication dated 06.10.2022 forwarded the recommendation to the petitioner who was then holding the post of Deputy Registrar (Housing),



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Salem as incharge. In turn, the petitioner forwarded the same to the fifth respondent. In fact, the petitioner acted upon the circular issued by the fifth respondent dated 03.01.2022. Thereafter, the fifth respondent granted sanction for implementation of the said layout by its proceedings dated 11.10.2022. Therefore, the petitioner has nothing to do with the approval granted by the fifth respondent. The first respondent has no jurisdiction to order for conducting Special Audit by the fourth respondent. In fact, the fourth respondent failed to conduct enquiry as per the provisions contemplated under the Tamilnadu Cooperative Societies Act(hereinafter called as 'the Act'). Section 80(7) of the Act mandates that audit report has to be furnished to the Society and if any defects are disclosed, the registered Society is required to rectify the defects. In fact, the Government is empowered only under Section 182 of the Act to give directions to the Registrar to make enquiry or to take appropriate proceedings under that Act. Therefore, the first respondent is not an authority to issue any direction to the Registrar to conduct enquiry. The second respondent Department is the appropriate authority to issue directions to carry out enquiry in public interest.



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4. Heard, the learned counsel appearing on either side.

5. On perusal of records revealed that on the complaint, the first respondent noted that certain irregularities had been committed while granting approval for development of layout by Cooperative Housing Society on a public private partnership model or joint venture model. On a proposal sent by the Deputy Registrar(Housing), Salem for approval for promotion of lay out dated 14.06.2022, the petitioner granted sanction / approval for the implementation of the said layout by the proceedings dated 11.10.2022. In the said approval for development of layout, there were several lapses occurred while granting approval, in pursuant to which, the Special Audit was conducted by the fourth respondent. Though it was on the direction issued by the first respondent, the fourth respondent has got jurisdiction to conduct audit under the Act. On perusal of the report, the third respondent directed the Vigilance and Anti Corruption Department to register criminal case and conduct investigation. In pursuant to the said direction, the petitioner was suspended from service.



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6. On perusal of the direction issued by the third respondent, revealed that there were several lapses while approving the implementation of layout thereby caused loss to the exchequer. The promoter was given interest free deposit and it is violation of the Act. Further, the promoter was given benefit of remission of stamp duty for the sale executed by the promotor in favour of the society and thereby caused loss. Further, no steps have been taken to increase the margin money of the society from the sale of the plots in spite of granting approval for increasing the development charges. Further alleged that fixation of land development charges without calling for tender under the Tamilnadu Transperancy in Tenders Act, 1998 and failed to deduct TDS on such development charges. The loan was also sanctioned contrary to the terms and conditions of the proceedings. In view of the said grave allegations, *prima facie* is made out to suspend the petitioner. Further, the petitioner was suspended only on 05.03.2024. Therefore, it is premature to challenge the order of suspension. Hence, this court finds no infirmity or illegality in the impugned order. As such, this writ petition is devoid of merits and liable to be dismissed.



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7. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

22.03.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

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- 2.Principal Secretary to Government,
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Housing and Urban Development Department,
Fort St.George, Secretariat, Chennai 600 009
- 3.Principal Secretary to Government,
The Government of Tamilnadu,
Co-operation, Food and Consumer Protection (CE2) Department,
Fort St.George, Secretariat,



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