



W.P.No. 12299 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.12299 of 2023

and

W.M.P.Nos.12132 and 12134 of 2023

S.Viswesvaran

.. Petitioner

Versus

1. The Registrar of Co-operative Societies,
Poonamallee High Road, Chennai.

2. The Deputy Registrar of Co-operative Societies,
Udhagamandalam, The Nilgris 643 001.

3. The Secretary,
Hiriyodaya Primary Agricultural
Co-operative Credit Society Ltd., J 296
Katteri Dam,
The Nilgris 643 213.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the entire records relating to the impugned proceedings dated 24.02.2023 on the file of the second respondent thereby removing the petitioner from the post of president and appointing the Vice President as President in-charge and quash the same and pass orders.



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For Petitioner
For Respondents

: Mr.R. Babu for A.Bobblie
: Mrs. M. Geetha Thamarai Selvan
Special Government Pleader

ORDER

This petition is filed to call for the entire records relating to the impugned proceedings dated 24.02.2023 on the file of the second respondent thereby removing the petitioner from the post of president and appointing the Vice President as President in-charge and quash the same and pass orders.

2. The case of the petitioner is that he was the president of the 3rd Respondent Society. The Vice-President along with 6 other members have made a requisition letter dated 18.01.2023 to bring a no confidence motion against the petitioner due to personal vengeance. Based on the requisition letter dated 18.01.2023 the second respondent herein called for a Special Board Meeting on 24.02.2023 and passed a resolution wherein, removed the petitioner from the post of President and appointed Mr.H. Murugesan, Vice President as president in charge. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the impugned order is totally in violation of the procedures prescribed



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under Rule 62 of the Tamil Nadu Co-operative Societies Rules, 1988. He further submitted that the impugned order was passed by the Board Members without issuing any notice to the petitioner and the same was communicated to the petitioner only on 04.03.2023. He further submitted that the requisition letter to the second respondent was made on 18.01.2023 and the impugned proceedings was passed on 24.02.2023 which is beyond the prescribed period of one month, hence the impugned proceedings itself is vitiated and unsustainable in law. Hence, prays to allow this petition.

4. *Per Contra* the learned Special Government Pleader appearing for the respondents submitted that a notice under Rule 62(3) was served to the petitioner by the second respondent vide his letter no.110/2023/Sa.Pa. Dated 31.01.2023 calling for his explanation with regard to conducting a Special meeting of the Board for deciding the no confidence motion by the majority of the members. The petitioner has also submitted his explanation vide his letter dated 06.02.2023, wherein he had refuted the charges leveled against him and had stated that the no confidence motion was brought only due to personal vengeance. Hence, he prays to dismiss this petition.



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5. I have given anxious consideration to either side submissions and perused the materials available on record.

6. Before advertng further it would be appropriate to go through the Judgment passed by this Court while dealing with an identical issue in the case of *A.Balaraman & Others Vs The Deputy Registrar of Co-operative Societies, Cheyyar and 2 others in W.A.No.1101 of 2008* and the relevant portion is extracted hereunder:

“Therefore, the remedy of the writ petitioners/ Appellants was to file an appeal before the said high powered Tribunal, Which has the Trappings of a Civil Court. By passing the said tribunal this writ petition has been filed, which in our view is totally misconceived. It is not only the question of availing Statutory remedy. Here, what is in issue is where the statute is specific and creates a special right which creates a remedy whether for enforcing the said rights, such remedy has to be invoked. Here the rights and remedies have been granted unto flato”

7. This writ petition revolves around two aspects. First one is whether the petitioner has provided with an opportunity of personal hearing by the second respondent and the second one is whether there was a delay in passing the impugned orders as the requisition letter was



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addressed to the second respondent on 18.01.2023 and the impugned proceedings was passed on 24.02.2023 which is beyond the prescribed period of one month.

8. With regard to first aspect, a notice under Rule 62(3) was served to the petitioner by the second respondent vide his letter no.110/2023/Sa.Pa. Dated 31.10.2023 calling for his explanation with regard to conducting a Special meeting of the Board for deciding the no confidence motion by the majority of the members and the petitioner has also submitted his explanation vide his letter dated 06.02.2023. The same would show that the petitioner has received the information and on verification of records it is found that the petitioner was served with appropriate notice, the petitioner perused the original legal records and it is clear that the petitioner was served with the records, in which out of nine members six members appeared and signed in favour of no confidence motion and the no confidence motion was not brought under Personal Vengeance.

9. With regard to second aspect the resolution passed to remove the petitioner from the post of president was passed after 37 days from



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the date of receipt of the written requisition of the Board of directors on 18.01.2023. The delay of 7 days is neither willful nor wanton and it was only and administrative delay. When the materials are found to be against the petitioner, mere administrative delay cannot be taken into account and the petitioner's removal is perfectly valid on the said facts and circumstances and the petitioner now cannot canvass the same.

10. In view of the above facts it is made clear that there is no merits in the submissions made by the petitioner and this petition deserves to be dismissed. Accordingly this petition is dismissed. Consequently the connected miscellaneous petition are closed. No order as to costs.

13.06.2024

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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4. The Section Officer, V.R. Section,
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