



WEB COPY



W.P.No.19013 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19013 of 2023 and
W.M.P.Nos.18257 & 18259 of 2023

A.Liyakath Ali

...Petitioner

-Vs-

- 1) The Managing Director,
The Tamilnadu Co-operative Milk Producer's Federation Ltd.,
Revenue Department, Aavin Illam, Mathavapuram,
Milk Colony,
Chennai-600 051.
- 2) The Commissioner for Milk Production and Dairy Development,
Chennai-600 061.
- 3) The General Manager,
Dharmapuri District,
Co-operative Milk Producers Union Ltd.,
Krishnagiri-635 002.

...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 made in Ref.No.6752/Estt.2/2018 dated 12.11.2021 passed by the third respondent and to quash the same as arbitrary and illegal and consequently direct the respondents not to recover the amount from petitioners' account.

For Petitioner

: Mr.E.C.Ramesh



W.P.No.19013 of 2023

For Respondents : Mr.I.John Arockiadass

ORDER

This Writ Petition is filed for challenging the order made in Ref.No.6752/Estt.2/2018 dated 12.11.2021 passed by the third respondent and to quash the same as arbitrary and illegal and consequently direct the respondents not to recover the amount from petitioners' account.

2. According to the petitioner, based on the audit objection, the recovery proceedings have been initiated as against the petitioner by the third respondent by proceedings in Ref.No.6752/Estt.2/2018 dated 12.11.2021 without giving any opportunity to the petitioner. Challenging the same, the petitioner has filed the instant writ petition before this Court.

3. At the time of admission, this Court by an order dated 27.06.2023, has granted interim stay for recovery alone.

4. The learned Standing counsel appearing for the respondents has



W.P.No.19013 of 2023

submitted that the present writ petition filed against the Co-operative Milk Producers Union Limited is not maintainable in the light of the judgement of the Larger Bench of this Court in ***K.Marappan vs Deputy Registrar of Co-operative Society, Namakkal*** reported in ***2006 (4) CTC 689***.

5. According to the learned counsel appearing for the petitioner, the petitioner is retired from service. He further submitted that in the light of the decision of the Hon'ble Supreme Court of India in State of ***Punjab vs Rafiq Masih (White Washer)*** reported in ***2015 (4) SCC 334***, wherein the Hon'ble Supreme Court of India held that there is a direction that the respondent cannot recover the said amount from the petitioner. Even though the said judgement has been placed before this Court, the petitioner can raise the point before the Appellate Authority. Further submitted that the 2nd respondent has not settled the retirement benefits to the petitioner for the reason that the recovery proceedings has been initiated as against the petitioner.



W.P.No.19013 of 2023

6. The learned Standing Counsel appearing for the respondents submitted that if any such request made by the petitioner, the 2nd and 3rd respondents will consider the eligible amount payable to the petitioner without reference to the disputed recovery amount.

7. Recording the said statement made by the learned Standing Counsel appearing for the respondents, this writ petition stands dismissed as not maintainable and it is for the petitioners to seek their remedy before the Appellate Authority within a period of four weeks. It is made clear that the interim order already granted by this Court dated 27.06.2023 shall be in force till such time. Consequently, connected miscellaneous petitions are closed. No costs.

12.03.2024

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation: Yes/No
gvn

To

1) The Managing Director,

4/6



W.P.No.19013 of 2023

The Tamilnadu Co-operative Milk Producer's Federation Ltd.,
Revenue Department, Aavin Illam, Mathavapuram,
Milk Colony,
Chennai-600 051.

- 2) The Commissioner for Milk Production and Dairy Development,
Chennai-600 061.
- 3) The General Manager,
Dharmapuri District,
Co-operative Milk Producers Union Ltd.,
Krishnagiri-635 002.



WEB COPY



W.P.No.19013 of 2023

G.K.ILANTHIRAIYAN,J.
gvn

W.P.No.19013 of 2023

12.03.2024