



WEB COPY



W.P. No.15538 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.07.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15538 of 2024

A. Kalaiyarasan

....Petitioner

..Vs..

1. The Deputy Registrar of Co-operative Society,
(Dairying), Dharmapuri.

2. The Special Officer,
DPT-17, Vathalapuram Milk Producers Co-Operative Society,
Moongil Maduvu Village and Post,
Pennagaram Taluk,
Dharmapuri District.

3. M. Baskar
Milk Tester,
DPT-17, Vathalapuram Milk Producers Co-Operative Society,
Moongil Maduvu Village and Post,
Pennagaram Taluk,
Dharmapuri District.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus directing the 1st respondent to consider and



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pass orders on the appeal sent by the petitioner under Special Bye-Law No.32 of the 2nd respondent Society dated 05.09.2023 praying to cancel the irregular promotion given to the 3rd respondent herein as Secretary of the 2nd respondent Society in accordance with law and on merits within a stipulated time fixed by this Hon'ble Court and pass orders accordingly.

For petitioner : Mr. R. Thamarasaiselvan
For Respondents : Mr.P. Vijaya Devi for R1
(Govt. Advocate)
: Mr. R.P. Muruganraja for R2
(Govt. Advocate)

ORDER

This Writ petition has been filed seeking for a Writ of Mandamus directing the 1st respondent to consider and pass orders on the appeal sent by the petitioner under Special Bye-Law No.32 of the 2nd respondent Society dated 05.09.2023 praying to cancel the irregular promotion given to the 3rd respondent herein as Secretary of the 2nd respondent Society in accordance with law and on merits within a stipulated time fixed by this Hon'ble Court and pass orders accordingly.

2. The case of the petitioner in a nutshell is as follows:

The petitioner was initially appointed as Assistant/Clerk on 01.04.2021 by the 2nd respondent herein. Since one Thirumathi Chandra



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who held the post of Secretary in the Society, had resigned her job, the petitioner was recommended to the said post in the Meeting of Board of management by considering his qualification and eligibility. Accordingly, he was appointed as Secretary in-charge in the 2nd respondent Society from the post of Assistant/Clerk by order in Na.Ka.No.700/2023/A dated 09.07.2023. In the meanwhile, however, the 3rd respondent being a Milk Tester and disqualified person for the post of Secretary as per By-Law No.4, has been appointed as Secretary to the said Society by the 2nd respondent by proceedings dated 05.09.2023. Not being satisfied with the promotion of the 3rd respondent as Secretary while the petitioner was considered and posted for the said post, the petitioner has sent an appeal dated 21.02.2024 on the file of the 1st respondent praying to cancel the said irregular promotion given to the 3rd respondent. In this regard, there is no order passed nor considered the appeal dated 21.02.2024 of the petitioner herein. Hence, this Writ petition.

3. The learned counsel for the petitioner submits that while the petitioner has obtained adequate qualification and eligibility for the post of the Secretary, the 2nd respondent has appointed the 3rd respondent as



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Secretary who is not at all qualified person as per Bye-Law of the Society.

Against this illegal appointment, the petitioner has filed an appeal dated 21.02.2024 before the 1st respondent. Since there is no reply sent nor order passed by the 1st respondent against the aforesaid Appeal, he seeks relief as stated in the petition.

4.The learned counsel for the respondents submits that the petitioner was appointed as Secretary in-charge temporarily pursuant to the resolution dated 18.07.2023 of the General Body Meeting to carry out the daily essential work of Milk Society and not appointed as Secretary on regular basis on promotion. Further, the 3rd respondent has been appointed as Secretary in charge temporarily based on terms and conditions of the Society Act due to avoid any adverse circumstances and welfare of the Society. If the prescribed condition was not attained by him, the Administration of the Society shall de-promote of his appointment. In view of the blood relation (son) of the earlier Secretary, ie Thirumathi Chandra, the petitioner was under enquiry as per the Society Bye-Law No.5. Under such circumstances, the claim of the petitioner is unsustainable and liable to be dismissed.



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5. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2 and perused the materials available on record.

6. Having considered the facts and circumstances of the case and submissions made by both side counsel, this Court without going into merits of the case, directs the 1st respondent herein to consider the appeal dated 21.02.2024 filed by the petitioner and pass appropriate orders as expeditiously as possible, preferably, within a period of twelve weeks from the date of receipt of copy of this order by giving sufficient opportunity to the petitioner.

7. In view of the above direction, the Writ petition is disposed of. No costs.

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Index : Yes/No
Internet: Yes/No
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V.BHAVANI SUBBAROYAN, J.,

Lbm

To

1. The Deputy Registrar of Co-operative Society,
(Dairying), Dharmapuri.
2. The Special Officer,
DPT-17, Vathalapuram Milk Producers Co-Operative Society,
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